



**DEPARTMENT OF VETERANS AFFAIRS**

**8320--01**

**38 CFR Part 61**

**RIN 2900-AQ15**

**Case Management Services Grant Program**

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** The Department of Veterans Affairs (VA) adopts as final, with no changes, an interim final rule amending its regulations that govern programs benefitting homeless veterans to implement a new statutory requirement. The statute requires VA to establish a new grant program that will provide case management services to improve the retention of housing by veterans who were previously homeless and are transitioning to permanent housing and to veterans who are at risk of becoming homeless. The grant program established by the interim final rule, which is now adopted as final, will be an essential part of VA's attempts to eliminate homelessness among the veteran population.

**DATES:** This final rule is effective **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**FOR FURTHER INFORMATION CONTACT:** Jeffery Quarles, Director, Grant and Per Diem Program, (10NC1HM), VA National Grant and Per Diem Program Office, 10770 N.

46<sup>th</sup> Street, Suite C-200, Tampa, FL 33617. Jeffery.quarles@va.gov. (877) 332-0334.  
(This is a toll-free number.)

**SUPPLEMENTARY INFORMATION:** In a document published in the Federal Register on June 5, 2018, VA published an interim final rule, which amended its regulations that govern programs benefitting homeless veterans. 83 FR 25915. VA provided a 60-day comment period, which ended on August 6, 2018. We received three comments on the interim final rule.

The general authority for VA homeless grant and per diem program is 38 United States Code (U.S.C.) 2011 and 2012. In an effort to reduce homelessness in the veteran population, Congress has required VA to expand its benefits for homeless veterans by establishing a new grant program to provide funds to organizations that will provide case management services to improve the retention of housing by veterans who were previously homeless and are transitioning to permanent housing and to veterans who are at risk of becoming homeless. See Pub. L. 114-315, sec. 712 (Dec. 16, 2016) (codified at 38 U.S.C. 2013). This final rule, adopts as final, an interim final rule that added this new case management program to VA's Homeless Providers Grant and Per Diem Program regulations by adding a new subpart G to 38 CFR part 61 to accurately reflect these changes in law. The new case management program mirrors existing homeless grant per diem programs as much as possible for ease of administrating and running the new grant program.

We received three comments. We received one comment in support of the rule. The commenter stated that the rule will help individuals who were previously homeless

obtain the help and support they need to transition to permanent housing and assist in the referral of homeless individuals to health care and mental health services. The commenter further stated that the case manager “could provide valuable support to veterans regarding education related to the tenant and financial responsibilities, healthy meal choices, transportation and other community resources.” We are not making any edits based on this comment.

One commenter was concerned with “the prohibition against: ‘the use of grant funds for veterans who are receiving case management services from permanent supportive housing programs (e.g. Housing and Urban Development – VA Supportive Housing) or rapid re-housing/ homeless prevention programs [e.g. Supportive Services for Veteran Families (SSVF)].’ This prohibition is found in the proposed 38CFR61.90(a).” The commenter requested clarification to the regulation to now state “that veterans in the HUD-VASH program but not receiving case management services therefrom (such as those veterans graduated off of those services) *would* in fact be eligible for the proposed case management services.”

The interim final rule explains that, to maximize those served by this new program, these grants may not be used for veterans who are receiving case management services from permanent supportive housing programs (e.g., HUD-VASH program) or rapid re-housing/homeless prevention programs (e.g. SSVF). 83 FR at 25915. In other words, the new case management benefits cannot be provided concurrently with case management services provided under these other programs. This also prevents duplication of benefits.

We believe that this particular concern centers around those veterans who have graduated from VA's Housing and Urban Development Veterans Administration Supportive Housing (HUD-VASH) Program and a perceived need to clarify their eligibility for case management services under this new program.

HUD-VASH participants graduate when they no longer require, and hence participate in, case management services; however, for financial reasons they may continue to receive the HUD Section 8 Housing Choice Voucher. While exited from case management under this program, they are fully integrated within the larger VA system of care and/or the community. Consistent with VA HUD-VASH policy, while continuing to use their rental assistance Section 8 voucher, they must be given the opportunity to return to case management under the HUD-VASH program, if needed. Upon review, VHA may approve requests for readmission to case management services under the HUD-VASH program. So, we disagree with the commenter's underlying assumption that HUD-VASH participants who have graduated from case management are foreclosed from obtaining needed case management services and so should be eligible for them under this new program. A mechanism is already in place for graduates from the HUD-VASH program to request readmission to case management. If the request is not approved, they may seek these services under grants awarded under this new grant program. The bar on the receipt of duplicate case management services refers only to cases where case management services would be provided under both this new grant program and a permanent supportive housing program or rapid re-housing/homeless prevention program. For these reasons, we do not believe that further clarification in the regulation text is needed. We make no changes based on this comment.

A commenter noted that prohibiting case management through Supportive Services for Veterans Families (SSVF) will prohibit temporary financial assistance through SSVF. As stated in § 62.1, SSVF provides supportive services grants to eligible entities to facilitate the provision of supportive services to very low-income veteran families who are occupying permanent housing. In developing the programming for the case management services grant, it is our intent to provide time limited case management services which support permanent housing retention. The target population for these services are veterans who entered permanent housing from Grant and Per Diem (GPD) and Health Care for Homeless Veterans (HCHV) residential services who do not have case management support and elect to have such follow-up services. Ensuring that there is no duplication of services when such case management exists is a prudent use of federal funds to ensure that as many homeless veterans as possible can have access to such support. Again, the emphasis in the interim final rule reflected this intent by stating: “These grant funds may not be used for veterans who are receiving case management services from permanent supportive housing programs (e.g. Housing and Urban Development—VA Supportive Housing) or rapid re-housing/homeless prevention programs (e.g. (SSVF)).” The rule does not prohibit temporary financial assistance and simply indicates that if a veteran is receiving case management from SSVF they should not also be receiving follow-up case management through the GPD case management grant. We are not making any changes based on this comment.

Another commenter indicated that they thought that six months of services provided under the case management grant would not be sufficient and that veterans need

longer than one year of support. We believe six months would be sufficient time for the case management services offered under this grant. It should be noted that veterans receiving case management services will have already received an episode of residential services through Grant and Per Diem transitional housing or Health Care for Homeless Veterans contract residential services prior to entering permanent housing. These programs include case management support. We are not making any changes based on this comment.

Based on the rationale set forth in the Supplementary Information to the interim final rule and in this final rule, VA is adopting the interim final rule with no changes.

#### Effect of Rulemaking

Title 38 of the Code of Federal Regulations, as confirmed by this final rule, represents VA's implementation of its legal authority on this subject. Other than future amendments to this regulation or governing statutes, no contrary guidance or procedures are authorized. All existing or subsequent VA guidance must be read to conform with this rule if possible or, if not possible, such guidance is superseded by this rule.

#### Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507) requires that VA consider the impact of paperwork and other information collection burdens imposed on the public. Under 44 U.S.C. 3507(a), an agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement

unless it displays a currently valid Office of Management and Budget (OMB) control number. See also 5 CFR 1320.8(b)(3)(vi).

This final rule will impose the following new information collection requirements. Paragraph (a) of § 61.92 requires that the applicant must meet the application requirements in this paragraph (a) or the application will be rejected and not considered further. Such documentation must be submitted to VA by the deadline established in the Notice of Fund Availability. The information is needed to establish eligibility for the case management services grant. As required by 44 U.S.C. 3507(d), VA submitted these information collections to OMB for its review. OMB approved these new information collection requirements associated with the final rule and assigned OMB control number 2900-0861.

#### Regulatory Flexibility Act

The Secretary 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. This final rule will only impact those entities that choose to participate and apply for a grant. Small entity applicants will not be affected to a greater extent than large entity applicants. Small entities must elect to participate, and it is considered a benefit to those who choose to apply. To the extent this final rule will have any impact on small entities, it will not have an impact on a substantial number of small entities. VA estimates that possibly up to 150 organizations will submit grant applications under this program and so be affected by this rule. The

Secretary therefore certifies that the adoption of 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. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604.

#### Executive Orders 12866, 13563 and 13771

Executive Orders 12866 and 13563 direct agencies to assess the 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 effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a “significant regulatory action,” which requires review by OMB, 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.

VA has examined the economic, interagency, budgetary, legal, and policy implications of this regulatory action and determined that the action is not a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at <http://www.regulations.gov>, usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's website at <http://www.va.gov/orpm> by following the link for VA Regulations Published from FY 2004 through FYTD.

This final rule is not an EO 13771 regulatory action because this final rule is not significant under EO 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 the 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 final rule will have no such effect on State, local, and tribal governments, or the private sector.

### Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 et seq.), the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

### Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance program number and title for this interim final rule are as follows: 64.024 VA Homeless Providers Grant and Per Diem Program.

### List of Subjects in 38 CFR Part 61

Administrative practice and procedure, Alcohol abuse, Alcoholism, Day care, Dental health, Drug abuse, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Mental health programs, Reporting and recordkeeping requirements, Travel and transportation expenses, Veterans.

### 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. Robert L. Wilkie, Secretary, Department of Veterans Affairs, approved this document on June 20, 2019, for publication.

Dated: June 20, 2019.

*Consuela Benjamin,*

Regulations Development Coordinator,  
Office of Regulation Policy & Management,  
Office of the Secretary,  
Department of Veterans Affairs.

**PART 61 – VA HOMELESS PROVIDERS GRANT AND PER DIEM PROGRAM**

Accordingly, the interim final rule amending 38 CFR part 61, which was published at 83 FR 25915 on June 5, 2018, is adopted as a final rule without changes.

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