

**38 CFR Part 76****RIN 2900-AR84****Monthly Assistance Allowance for Veterans in United States Olympic or Paralympic Events**

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the Department of Veterans Affairs (VA) regulations that govern the monthly assistance allowance for eligible veterans in the United States (U.S.) Olympic or Paralympic Events. We are amending these regulations to conform with the governing statute and to codify current VA policy, which would make the process for applying for the monthly assistance allowance more transparent. We would also make edits to outdated terminology.

DATES: Comments must be received on or before [insert date 60 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: Comments may be submitted through www.Regulations.gov. Except as provided below, comments received before the close of the comment period will be available at www.regulations.gov for public viewing, inspection, or copying, including any personally identifiable or confidential business information that is included in a comment. We post the comments received before the close of the comment period on www.regulations.gov as soon as possible after they have been received. VA will not post on [Regulations.gov](http://www.Regulations.gov) public comments that make threats to individuals or institutions or suggest that the commenter will take actions to harm an individual. VA encourages

individuals not to submit duplicative comments; however, we will post comments from multiple unique commenters even if the content is identical or nearly identical to other comments. Any public comment received after the comment period's closing date is considered late and will not be considered in the final rulemaking. In accordance with the Providing Accountability Through Transparency Act of 2023, a 100 word Plain-Language Summary of this proposed rule is available at Regulations.gov, under RIN 2900-AR84.

FOR FURTHER INFORMATION CONTACT: Rachel McArdle, Deputy Executive Director, VHA Rehabilitation Prosthetics Service, Department of Veterans Affairs, 810 Vermont Avenue, N.W., Washington, D.C. 20420, (727) 219-6296. (This is not a toll-free telephone number.)

SUPPLEMENTARY INFORMATION: Section 322 of 38 United States Code (U.S.C.) establishes a monthly assistance allowance for veterans with disabilities who are invited by the United States Olympic Committee (USOC) to compete for a slot on, or selected for, the Paralympic Team for any month in which the veteran is training or competing in any event sanctioned by the USOC or who are residing at a USOC training center. We note that, although section 322 uses the term United States Olympic Committee, the actual name of the organization is the United States Olympic and Paralympic Committee (USOPC), which will be used throughout this rule. Section 322 of 38 U.S.C. also establishes a monthly assistance allowance for veterans with a VA service-connected disability rated as 30 percent or greater by VA who are selected by the USOPC for the United States Olympic Team for any month in which the veteran is competing in any event sanctioned by the National Governing Bodies of the United States Olympic Sports.

On March 16, 2011, VA published a final rule in the Federal Register that codified 38 U.S.C. 322 into regulation as new 38 Code of Federal Regulations (CFR) part 76. See 76 FR 14283. This proposed rule would amend current 38 CFR part 76 by replacing certain sections and by including an incorporation by reference section, defining new terms, establishing in regulation certain criteria that are currently established in VA policy, and generally reorganizing content for ease of readability and understanding.

We note that current VA policy is located at VA's website at Monthly Training Allowance - Veterans Health Administration (va.gov). Current policy is also stated on U.S. Department of Veterans Affairs (VA) Veteran Monthly Assistance Allowance for Disabled Veterans Training in Paralympic and Olympic Sports Program (VA Monthly Training Allowance) program guide. We believe that the VA policy criteria that we would seek to regulate in this rulemaking are reasonable interpretations of VA's authority under 38 U.S.C. 322 and are well known to veterans that participate in this monthly allowance program.

Revising the center heading title for part 76

Part 76 of 38 CFR is currently titled Monthly Assistance Allowance for Veterans in Connection with the United States Paralympics. However, the monthly assistance allowance is not paid solely to veterans who are training for or competing in the Paralympics, it may also be paid to veterans who compete in the Olympics. As stated in 38 U.S.C. 322(d)(1)(B), the special monthly allowance may be paid to a veteran with a VA service-connected disability rated as 30 percent or greater by the Department of Veterans Affairs who is selected by the USOPC for the United States Olympic Team for any month in which the veteran is competing in any event sanctioned by the National Governing Bodies of the United States Olympic Sports. For this reason, we propose to

amend the center heading title for 38 CFR part 76 to state Monthly Assistance Allowance for Veterans in Connection with a United States Olympic or Paralympic Event.

The current authority for 38 CFR part 76 is 38 U.S.C. 501, 322(d), and as stated in specific sections. However, paragraph (d) of 38 U.S.C. 322 is not the only paragraph in section 322 that is applicable to the monthly assistance allowance. Paragraph (c) of section 322 is applicable as the Secretary has the discretion to determine whether a program is a qualifying program for purposes of the monthly allowance. Section 322(e) is also applicable as U.S. commonwealths and territories have their own National Olympic and Paralympic teams, but veterans who reside in such commonwealths and territories are eligible to receive the monthly assistance allowance. We therefore propose to amend the authority section for 38 CFR part 76 to state 38 U.S.C. 501, 322, and as stated in specific sections.

76.1 Incorporation by reference

Proposed § 76.1 would address the incorporation by reference in 38 CFR part 76 of the International Paralympic Committee (IPC) Athlete Classification Code, which contains certain required classifications, standards, and criteria related to para-athlete sports competition. The IPC Athlete Classification Code defines who is eligible to compete in Para-sport and consequently who has the opportunity to reach the goal of becoming a Paralympic Athlete. The IPC Athlete Classification Code also groups athletes into sport classes, which ensure that the impact of impairment is minimized. In addition, the IPC Athlete Classification Code aims to ensure that sporting excellence determines which athlete or team is ultimately victorious. International competitions require that competitors comply with the IPC Athlete Classification Code. As such, VA relies on the IPC Athlete Classification Code because most competitors who receive a

monthly assistance allowance compete internationally. We would use a separate section for incorporation by reference in this proposed rule because the IPC Athlete Classification Code would apply to all of part 76, as stated in the relevant sections.

VA currently incorporates by reference the IPC Classification Code and International Standards November 2007 edition as part of the definition of the term disability in § 76.1. However, the IPC Code and Standards were updated in November 2015 and are now titled the IPC Athlete Classification Code. In compliance with 5 U.S.C. 552(a) and 1 CFR part 51, we propose to incorporate by reference the most current edition of the IPC Athlete Classification Code, the November 2015 edition. The introductory text of proposed § 76.1 would state the approval language for IBR material in part 76 and paragraph § 76.1(a) would identify this IBR material, its publisher, and how to view or obtain it.

76.5 Purpose

Proposed § 76.5 would establish the purpose for 38 CFR part 76, to state that this part implements the VA program for monthly assistance allowance available to eligible veterans with disabilities who are training or competing in sanctioned Olympic or Paralympic events as provided under 38 U.S.C. 322. This language would be in alignment with 38 U.S.C. 322 and would provide context for the remainder of the proposed sections as outlined in this rule.

76.10 Definitions

Proposed § 76.10 would provide the definitions section for 38 CFR part 76. Current § 76.1 only defines two terms, disability, and Paralympic training center. We would amend the definition of disability from current § 76.1 as this definition includes the incorporation by reference information that would now be addressed in proposed § 76.1.

We would amend the definition of disability and Paralympic training center, and add new definitions, as further explained below.

We would define the term dependent to mean a spouse, child, or parent who meets the definition of these terms as defined in 38 U.S.C. 101. Consistent with 38 U.S.C. 322(d)(2), the rate at which VA pays the monthly allowance must be equal to the monthly amount of subsistence allowance that would be payable to a veteran under chapter 31 of title 38 U.S.C. if the veteran were eligible for and entitled to rehabilitation under chapter 31. The monthly amount of subsistence allowance under chapter 31 of title 38 U.S.C. (and as regulated in 38 CFR part 21) is affected by whether an eligible veteran has any dependents and therefore whether the veteran has dependents would also affect the monthly assistance allowance under this section. See current § 76.4 and proposed § 76.25. We, therefore, would add a definition of dependent to part 76. Using VA's statutory definitions of these terms under section 101 would provide for consistency with the administration of monthly assistance allowance under 38 U.S.C. chapter 31 as required by section 322(d)(2).

Current § 76.1 defines the term disability to include the incorporation by reference information that would now be addressed in proposed § 76.1. We would amend the definition of disability from current § 76.1 by eliminating the incorporation by reference information and would now state that disability means a condition that meets the criteria prescribed by the International Paralympic Committee (IPC) Classification Code and International Standards, as incorporated by reference in § 76.1, and qualifies the veteran for participation in a sport sanctioned by the USOPC.

We would define the term eligible veteran to mean a veteran who meets the requirements of § 76.15. For a veteran to receive the monthly assistance allowance, they must meet the eligibility criteria stated in proposed § 76.15.

We would define the term national governing body to mean an organization recognized by the USOPC or equivalent committee in the U.S. that looks after all aspects of an individual sport and is responsible for the training, competition, and development for their sports within their designated jurisdiction. Although the term National Governing Bodies of the United States Olympic Sports is used in section 322(d)(1)(B), we would not use this term and, instead, use the term USOPC, because United States Olympic Sports is not the name of an official entity; it is the United States Olympic and Paralympic Committee (USOPC). A national governing body would include the USOPC itself or organizations recognized by the USOPC in the 50 States and the District of Columbia. Veterans who live in U.S. Commonwealths and Territories are also eligible for this allowance, however, their national governing body may not be recognized by the USOPC because the International Paralympic Committee recognizes each U.S. Commonwealth and Territory as independent entities of the international community. Instead, we would provide that the national governing body be recognized by the USOPC or equivalent committee in the U.S to include governing bodies in the Commonwealths and Territories.

We would define the term National Team to mean the highest level of elite athlete(s) within a respective event. Section 322(d)(1)(A) provides that, for Paralympic sports, VA may pay the monthly allowance for a veteran with a disability who is invited by the United States Olympic Committee to compete for a slot on, or selected for, the Paralympic Team for any month in which the veteran is training or competing in any event sanctioned by the United States Olympic Committee or who is residing at a United States Olympic Committee training center. Although not stated in the statute, VA understands the Paralympic Team to mean the National Paralympic Team. Section 322(d)(1)(B) provides that VA may pay the monthly allowance for a veteran with a VA

service-connected disability rated as 30 percent or greater who has been selected to participate in the United States Olympic Team.

We would define the term Olympic and Paralympic Training Center (OPTC) to mean locations where the national governing body established facilities for training Olympic and Paralympic athletes. Section 322(d)(1)(A) provides that the monthly allowance may be paid to a veteran who is residing at a United States Olympic Committee training center. Although the statute uses the term United States Olympic Committee training center, we would instead define the term OPTC to be in alignment with the current name used by the USOPC. Current § 76.1 defines the term Paralympic Training Center to refer to the following locations: The United States Olympic Training Center at Chula Vista, California; the United States Olympic Training Center at Colorado Springs, Colorado; the United States Olympic Training Center at Lake Placid, New York; the Lakeshore Foundation in Birmingham, Alabama; and the University of Central Oklahoma in Edmond, Oklahoma. However, these sites are subject to change, which would require VA to continuously amend its regulations. As such, we propose to define the term OPTC to generally refer to the locations where the national governing body established facilities for training Olympic and Paralympic athletes to provide for that flexibility.

We would define the term Olympic event to mean an event contested in the Summer Olympic Games or Winter Olympic Games. Section 322(d)(1)(B) states that VA may pay a monthly assistance allowance to veterans who are selected for the U.S. Olympic team for any month in which the veteran is competing in any event sanctioned by the National Governing Bodies of the United States Olympic Sports. Olympic events are only contested in the Summer and Winter Olympic Games.

We would define the term Paralympic event to mean an event that is contested in the Summer Paralympic Games or Winter Paralympic Games, as well as events run by

IPC-recognized international federations that meet the criteria of active international competition consistent with IPC standards for a Paralympic event. Section 322(d)(1)(A) provides that VA may provide a monthly assistance allowance to a veteran with a disability invited by the USOPC to compete for a slot on, or selected for, the Paralympic Team for any month in which the veteran is training or competing in any event sanctioned by the USOPC or who is residing at an OPTC. Contrary to Olympic events, Paralympic events may be contested in venues other than the Summer or Winter Paralympic Games.

We would define the term service-connected to be consistent with the statutory definition to mean, with respect to disability, that such disability was incurred or aggravated in line of duty in the active military, naval, air, or space service. VA defines the term service-connected in 38 U.S.C. 101 and would similarly define it here for consistency. However, we would not include statutory reference to death resulting from a disability that was incurred or aggravated, in line of duty in the active military, naval, air, or space service because the monthly allowance is only paid to veterans and not a surviving spouse, child, or parent of a veteran. A monthly allowance may be provided to a veteran with a service-connected disability rated 30 percent or greater who is selected by the United States Olympic Committee for the United States Olympic Team for any month in which the veteran is competing in any event sanctioned by the National Governing Bodies of the United States Olympic Sports. See 38 U.S.C. 322(d)(1)(B).

We would define the term U.S. to mean the United States and each of the 50 States, the District of Columbia, American Samoa, Guam, Puerto Rico, Northern Mariana Islands, and the United States Virgin Islands. Although this definition is largely consistent with the statutory definition of State in 38 U.S.C. 101, we believe it is important to specifically list out all commonwealths and territories that are listed in section 322(e). This definition would be used in the context of this monthly allowance

program to qualify the locations in which national teams, national governing bodies, or residential criteria may be considered for purposes of eligibility in proposed § 76.15.

We would define the term veteran to have the meaning as given to this term in 38 U.S.C. 101 (2). We would add this definition to be clear who VA considers a veteran eligible for the monthly assistance allowance.

76.15 Eligibility

Current § 76.2 establishes the eligibility criteria for the monthly allowance by stating that VA will pay an allowance to a veteran with a disability who is: Invited by the United States Paralympics (USP) to compete for a slot on, or selected for, the USP Team for any month or part of any month in which the veteran is training or competing in any event sponsored by the USP or the IPC; or Residing at a USP training center in connection with any Paralympic training or competition for the period certified under § 76.3. However, these are not the only criteria for payment of the monthly allowance. Proposed § 76.15 would establish the eligibility criteria for eligible veterans who apply to receive a monthly assistance allowance. These criteria would be in alignment with 38 U.S.C. 322(d) and would also incorporate current VA policy.

We would state in proposed paragraph (a) that to be eligible for a monthly assistance allowance under this part, a veteran must have a training and competition plan and meet the requirements applicable to their event, as established and certified by the national governing body to verify that the veteran meets the criteria for eligibility in their respective sport. The training plan would establish the veteran's training goals and plans for upcoming competition in sanctioned events.

Proposed paragraph (b) would provide the eligibility criteria for veterans who compete in Paralympic and Olympic events. Proposed paragraph (b)(1) would establish the eligibility criteria for veterans who would compete in a Paralympic event. We would

state in proposed (b)(1) that for a Paralympic event, a veteran must: (i) have a disability which meets the criteria prescribed by the IPC Athlete Classification Code (incorporated by reference under § 76.1). As previously stated in this rulemaking, international competitions require that competitors comply with the IPC Athlete Classification Code. As such, VA relies on the IPC Athlete Classification Code because most competitors who receive a monthly assistance allowance compete internationally.

We would state in proposed (b)(1)(ii) that a veteran must be invited by a national governing body to compete for a slot on, or selected for, the National Team in a Paralympic sport and (A) Is training or competing in an event sanctioned by a national governing body; or (B) Is residing at a U.S. Olympic and Paralympic Committee Training Center. We would state in Proposed (b)(1)(iii) that a veteran must meet the minimum performance standards or higher in the veteran's respective Paralympic event at a competition or other designated event sanctioned by a national governing body. The requirements in (b)(1)(ii) are in alignment with section 322(d)(1)(A). The requirements in (b)(1)(iii) are consistent with VA policy to ensure only eligible veterans receive the monthly allowance because there are many sanctioned Paralympic events in which veterans participate that can draw a wide range of first-time participants who do not have sufficient athletic skills to meet minimum performance standards for an event.

Current part 76 does not establish eligibility criteria for veterans who participate in Olympic events. However, 38 U.S.C. 322(d)(1)(B) allows for a monthly allowance to be payable to a veteran with a service-connected disability rated as 30 percent or greater who is selected by the USOPC for the United States Olympic Team for any month in which the veteran is competing in any event sanctioned by the National Governing Bodies of the United States Olympic Sports. Consistent with section 322(d)(1)(B), proposed paragraph (b)(2) would establish the eligibility criteria for a veteran who participates in an Olympic event. We would state in proposed (b)(2) that for

an Olympic event a veteran must: (i) have a service-connected disability rated at 30 percent or more by VA; (ii) be selected by a national governing body in the U.S. to compete as a member of a National Team in an Olympic event; and (iii) is competing in an event sanctioned by a national governing body.

Proposed paragraph (c) would establish the relationship between VA and the entities that are recognized as national governing bodies. As such we would state in proposed paragraph (c) that VA must have an active partnership with a national governing body in an Olympic or Paralympic event in order to have an active monthly assistance allowance for a respective Olympic or Paralympic event. An active partnership allows VA to have an effective relationship with the national governing body to ensure effective, valid actions exist through all aspects of the allowance program and are formalized through joint-use allowance support software. Partnership relationships ensure that the national governing bodies involved and central to this part are identified and recognized by some system or standard. Partnerships are also an essential component of the monthly assistance allowance because VA relies on the criteria established by various national governing bodies to determine whether veterans are eligible to receive the monthly allowance. Partnerships would also assist the eligible veteran in obtaining certification, as discussed below regarding section 76.20, from a recognized national governing body.

76.20 Application, certification

Proposed § 76.20 would establish the application procedures for the monthly assistance allowance. This section would clarify current § 76.3 and make it consistent with current VA policy. We note that there is no specific time period for submitting an application. However, VA would only issue payment of the monthly assistance

allowance prospectively within a given fiscal year. Funds for the payment of the monthly assistance allowance are appropriated on a fiscal year basis.

We would state that to receive a monthly assistance allowance under this part, an eligible veteran must submit the items stated in this section. Proposed paragraph (a) would require that the eligible veteran submit a complete application.

Proposed paragraph (b) would establish the requirement for the veteran to provide certification by a national governing body. Proposed paragraph (b) would state that the veteran must submit a complete certification, subject to paragraph (b)(3) of this section, signed by an authorized representative from the national governing body, that specifies whether payment is due for training, competition, or residence; the level of performance accomplished; and the dates of the training, competition, or residence for the period for which payment is requested.

In proposed paragraph (b)(1)(i) we would provide, for Paralympic events, the national governing body must additionally certify that the veteran meets the applicable classification criteria prescribed by the IPC Athlete Classification Code (as incorporated by reference in §76.1).

Proposed paragraph (b)(1)(ii) would state that a national governing body for a Paralympic event will work cooperatively with VA in the establishment of Paralympic event performance standards. For emerging athletes not on a National Team in a Paralympic event, performance standards may consist of initial entry standards and increasing performance standards over time for progress as a training Paralympic athlete. This is in alignment with current VA policy.

Proposed paragraph (b)(1)(iii) would state that the national governing body will act as lead in classification and certification of an eligible veteran's performance, but VA will make final determination on performance standards in a Paralympic event and the frequency of the certification. This is in alignment with current VA policy.

Proposed paragraph (b)(2) would provide criteria related to Olympic events and would state that for Olympic events, the national governing body must certify the veteran's status as a National Team member.

Proposed paragraph (b)(3) would add that waivers for the certification requirement may be allowed at VA's discretion in exceptional circumstances. Exceptional circumstances include, but are not limited to, National emergencies, such as a pandemic that causes cessation of activities, such as the COVID-19 National Emergency, or a disruption of a sports activity due to circumstances beyond the veteran's control that would necessitate ongoing veteran training for elite competition and would reasonably warrant a waiver. This paragraph would be consistent with current VA policy.

Proposed paragraph (c) would provide for the frequency of submission of the training plan and certification. Proposed paragraph (c)(1) would state that eligible veterans must submit their established training and competition plans in monthly reports in order to continue receiving the monthly assistance allowance. This paragraph would be consistent with current VA policy.

Proposed paragraph (c)(2) would provide that an eligible veteran must resubmit a certification at least every twelve months to continue to receive a monthly assistance allowance after the initial twelve month period. The update of a certification of achieving standards establishes a new 12-month period.

76.25 Monthly assistance allowance amount

Proposed § 76.25 would provide for the amount payable for the monthly assistance allowance. Section 322(d)(2) of 38 U.S.C. provides that the amount of the monthly assistance payable to a veteran shall be equal to the monthly amount of

subsistence allowance that would be payable to the veteran under chapter 31 of this title if the veteran were eligible for and entitled to rehabilitation under such chapter.

Consistent with section 322(d)(2), we would state in proposed paragraph (a) that VA may pay a monthly assistance allowance at the rate payable to a veteran, including those with dependents, who is in a full-time institutional program under title 38 United States Code (Chapter 31). This language would clarify current § 76.4(a) and (c).

Proposed paragraph (b) would provide for the monthly assistance allowance amount for eligible veterans who train or compete in an event sanctioned by a national governing body for each day of training or competition. We would state that when a veteran meets allowance standards for less than a full month, the payment is prorated for the portion of the month certified and may be made at 1/30 of the monthly rate to eligible veterans who train or compete in an event sanctioned by a national governing body for each day of training or competition.

Proposed paragraph (c) would provide for the monthly assistance allowance amount for eligible veterans who reside at a U.S. Olympic and Paralympic Committee Training Center. We would state that payment may be made at 1/30 of the monthly rate to eligible veterans who reside at a U.S. Olympic and Paralympic Committee Training Center for each day of residence. This language is consistent with the language in current § 76.4(b).

Proposed paragraph (d) would state that in providing the monthly assistance allowance, VA will issue payments on a monthly basis. This language is consistent with the language in current § 76.4(b).

We would state in proposed paragraph (e) that VA would periodically assess funding for the allowance during the fiscal year. We would add that if a periodic assessment reveals that funding is insufficient to pay all eligible veterans for the duration of the appropriation period, VA would first pay in full eligible veterans with

service-connected disabilities. Under 38 U.S.C. 322(d)(1), the payment of the monthly assistance allowance is subject to the availability of appropriations. In addition, 38 U.S.C. 322(d)(3) states that in providing assistance under this subsection, the Secretary shall give priority to veterans with service-connected disabilities. Therefore, VA would continuously assess the funding for the monthly assistance allowance and ensure priority is given to those veterans with service-connected disabilities. This is consistent with 38 U.S.C. 322(d)(3) and current VA policy.

76.30 Reclassification and change in event.

Historically, classification of an individual in a particular event was based on the individual's disability as established by a medical evaluation, placing little emphasis on the individual's skill level on an event. In the 1980s and 1990s many athletes and classifiers recognized this shortcoming and drove the development of functional Classification Systems, which focus more fully on performance. As an eligible veteran progresses on a particular event, their classification within that event may change. As a result, these eligible veterans must be reassessed every year and potentially reclassified during that same year if their skill level progresses within their chosen event. Current VA policy allows for eligible veterans to be reclassified in their current event or change events altogether. We believe that these reclassifications and changes in event should also be addressed in regulation as they affect the eligibility of a veteran to receive the monthly allowance.

Proposed § 76.30 would provide requirements for after a veteran is reclassified or changes events. Proposed paragraph (a) would establish the requirements for continued monthly allowance after an eligible veteran is reclassified. We note that the reclassification primarily occurs when an individual participates in an event, which is usually during the competitive season. We would state in proposed paragraph (a)(1)

that if an eligible veteran is reclassified by a national governing body the following must occur: (i) the eligible veteran must achieve the performance standard or higher, as stated in § 76.20(b)(1), in the eligible veteran's new classification for the event; (ii) the performance standard must be achieved no later than six months after the date of reclassification. We would also state in proposed paragraph (a)(2) that the eligible veteran would continue to receive an allowance under this part as long as all other applicable standards and requirements under this part continue to be met.

Proposed paragraph (b) would provide the requirements for continued monthly allowance after an eligible veteran changes event. We would state that if an eligible veteran changes the event for which they have been approved for an allowance under this part, they must meet all applicable standards and requirements stated in § 76.20 for the new event to receive an allowance under this part.

Approval of Incorporations by Reference

The Office of the Federal Register, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, approved VA's incorporation by reference of previous editions of the IPC's Classification Code and International Standards, November 2007 edition. We propose to update this incorporation by reference to the current IPC's Athlete Classification Code, November 2015 edition. The IPC Athlete Classification Code applies to all members of the Paralympic Movement and to all athletes competing in a Para-sport at International competitions under the jurisdiction of the International Sport Federation. The Code also applies to the International Recognized Federations. The Code details policies and procedures common across all sports and sets principles to be applied by all Para-sports. The Code is intended to be specific enough to achieve harmonization on Classification where standardization is required and general enough in other areas to permit flexibility regarding the implementation of its principles. It consists of International

Standards that provide technical and operational standards for specific aspects of Classification to be carried out by all signatories in a manner which athletes and other Paralympic stakeholders understand and have confidence in, namely: International Standard for Eligible Impairments -

https://www.paralympic.org/sites/default/files/document/161007092455456_Sec+ii+chapter+1_3_2_subchapter+1_International+Standard+for+Eligible+Impairments.pdf;

International Standard for Athlete Evaluation -

https://www.paralympic.org/sites/default/files/document/161007092547338_Sec+ii+chapter+1_3_2_subchapter+2_International+Standard+for+Athlete+Evaluation.pdf;

International Standard for Protests and Appeals -

https://www.paralympic.org/sites/default/files/document/161007092547338_Sec+ii+chapter+1_3_2_subchapter+2_International+Standard+for+Athlete+Evaluation.pdf;

International Standard for Classifier Personnel and Training -

https://www.paralympic.org/sites/default/files/document/161007092741545_Sec+ii+chapter+1_3_2_subchapter+4_International+Standard+for+Classifier+Personnel+and+Training.pdf; International Standard for Classification Data Protection -

https://www.paralympic.org/sites/default/files/document/161007092840570_Sec+ii+chapter+1_3_2_subchapter+5_International+Standard+for+Classification+Data+Protection.pdf. This rule would incorporate the IPC Athlete Classification Code, November 2015 edition, in its entirety.

The incorporation by reference document is reasonably available from the Department of Veterans Affairs, Office of National Veterans Sports Programs and Special Events by email at stipends4vets@va.gov and also available from the publisher at: [170704160235698_2015_12_17+Classification+Code_FINAL2_0.pdf](https://www.paralympic.org/sites/default/files/document/170704160235698_2015_12_17+Classification+Code_FINAL2_0.pdf) (paralympic.org). We will request approval of this incorporation by reference from the Office of the Federal Register during the Final rule stage.

Executive Orders 12866, 13563, and 14094

Executive Orders 12866 (Regulatory Planning and Review) 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 14094 (Executive Order on Modernizing Regulatory Review) supplements and reaffirms the principles, structures, and definitions governing contemporary regulatory review established in Executive Order 12866 and Executive Order 13563. The Office of Information and Regulatory Affairs has determined that this rulemaking is not a significant regulatory action under Executive Order 12866, as amended by Executive Order 14094. The Regulatory Impact Analysis associated with this rulemaking can be found as a supporting document at www.regulations.gov.

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). This rulemaking does not change VA's policy regarding small businesses, does not have an economic impact to individual businesses, and does not increase or decrease costs to small business entities. This rule would only affect eligible veterans with disabilities who are training and competing in programs or events sanctioned by the U.S. Olympic and Paralympic Committee, an equivalent national governing body, or National Paralympic Committees

in the United States as defined in this rule, and is considered a benefit for these veterans. Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

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 proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

Paperwork Reduction Act (PRA)

Although this proposed rule contains collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3521), there are no provisions associated with this rulemaking constituting any new collection of information or any revisions to the existing collection of information. The collection of information for proposed 38 CFR § 76.20 is currently approved by the Office of Management and Budget (OMB) and has been assigned OMB control 2900-0760.

Assistance Listing

The Assistance Listing number and title for the program affected by this document is 64.037, VA U.S. Paralympics Monthly Assistance Allowance Program. Certification, Disabled, Eligibility, Incorporation by reference, Individuals with disabilities, Monthly assistance allowance, Overpayment, Oversight, Physically challenged athletes,

Service-connected disabilities, Sport event, Travel and transportation expenses, U.S. Paralympics training center, Veterans.

List of Subjects in 38 CFR Part 76

Certification, Disabled, Eligibility, Incorporation by reference, Individuals with disabilities, Monthly assistance allowance, Overpayment, Oversight, Physically challenged athletes, Service-connected disabilities, Sport event, Travel and transportation expenses, U.S. Olympic and Paralympic Training Center, Veterans.

Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved this document on March 28, 2024, 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.

Consuela Benjamin,
Regulations Development Coordinator,
Office of Regulation Policy & Management,
Office of General Counsel,
Department of Veterans Affairs.

For the reasons stated in the preamble, the Department of Veterans Affairs proposes to revise 38 CFR part 76 as set forth below:

PART 76 – MONTHLY ASSISTANCE ALLOWANCE FOR VETERANS IN CONNECTION WITH A UNITED STATES OLYMPIC OR PARALYMPIC EVENT

Sec.

76.1 Incorporation by reference.

76.5 Purpose.

76.10 Definitions.

76.15 Eligibility.

76.20 Application, certification.

76.25 Monthly assistance allowance amount.

76.30 Reclassification and change in event.

Authority: 38 U.S.C. 501, 322, and as stated in specific sections.

§ 76.1 Incorporation by reference.

Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. All approved incorporation by reference (IBR) material is available for inspection at the Department of Veterans Affairs and at the National Archives and Records Administration (NARA). Contact the Department of Veterans Affairs at: Office of National Veterans Sports Programs and Special Events at 810 Vermont Ave. NW, Washington DC 20420; or by email at stipends4vets@va.gov. For information on the availability of this material at NARA, visit www.archives.gov/federal-register/cfr/ibr-locations.html or email fr.inspection@nara.gov. The material may be obtained from the following source:

(a) International Paralympic Committee, Adenauerallee 212-214, 53113 Bonn, Germany;

https://www.paralympic.org/sites/default/files/document/170704160235698_2015_12_17%2BClassification%2BCode_FINAL2_0.pdf.

(1) International Paralympic Committee (IPC) Athlete Classification Code, November 2015 edition; IBR approved for §§ 76.10, 76.15(b)(1)(i), and 76.20(b)(1)(i).

(2) [Reserved]

(b) [Reserved]

§ 76.5 Purpose.

The purpose of this part is to implement the Department of Veterans Affairs' (VA) program for monthly assistance allowance available to eligible veterans with disabilities who are training or competing in sanctioned Olympic or Paralympic events as provided under 38 U.S.C. 322.

§ 76.10 Definitions.

The following definitions apply to 38 CFR part 76.

Dependent means a spouse, child, or parent who meets the definition of these terms as defined in 38 U.S.C. 101.

Disability means a condition that meets the criteria prescribed by the International Paralympic Committee (IPC) Athlete Classification Code (incorporated by reference, see § 76.1) and qualifies the veteran for participation in a sport sanctioned by the USOPC.

Eligible veteran means a veteran who meets the requirements of § 76.15.

National governing body means:

(1) An organization recognized by the USOPC or equivalent committee in the U.S. and

(2) Looks after all aspects of an individual sport and is responsible for the training, competition, and development for their sports within their designated jurisdiction.

National Team is the highest level of elite athlete(s) within a respective event.

Olympic and Paralympic Training Center (OPTC) means the locations where the national governing body established facilities for training Olympic and Paralympic athletes.

Olympic event means an event contested in the Summer Olympic Games or Winter Olympic Games.

Paralympic event means an event that is contested in the Summer Paralympic Games or the Winter Paralympic Games, as well as events run by IPC-recognized international federations that meet the criteria of active international competition consistent with IPC standards for a Paralympic event.

Service-connected means, with respect to disability, that such disability was incurred or aggravated in line of duty in the active military, naval, air, or space service.

U.S. means the United States and each of the 50 States, the District of Columbia, American Samoa, Guam, Puerto Rico, Northern Mariana Islands, and the United States Virgin Islands.

Veteran has the meaning as given to this term in 38 U.S.C. 101 (2).

§ 76.15 Eligibility.

(a) *General.* To be eligible for a monthly assistance allowance under this part, a veteran must have a training and competition plan and meet the requirements applicable to their event, as established and certified by the national governing body to verify that the veteran meets the criteria for eligibility in their respective sport.

(b) *Paralympic and Olympic events.* (1) *Paralympic event.* For a Paralympic event, a veteran must:

(i) Have a disability which meets the criteria prescribed by the IPC Athlete Classification Code (incorporated by reference under § 76.1);

(ii) Be invited by a national governing body to compete for a slot on, or selected for, the National Team in a Paralympic sport and:

(A) Is training or competing in an event sanctioned by a national governing body;
or

(B) Is residing at a U.S. Olympic and Paralympic Committee Training Center; and

(iii) Meet the minimum performance standards or higher in the veteran's respective Paralympic event at a competition or other designated event sanctioned by a national governing body.

(2) *Olympic event.* For an Olympic event, a veteran must:

(i) Have a service-connected disability rated at 30 percent or more by VA;

(ii) Be selected by a national governing body in the U.S. to compete as a member of a National Team in an Olympic event; and

(iii) Is competing in an event sanctioned by a national governing body.

(c) VA must have an active partnership with a national governing body in an Olympic or Paralympic event in order to have an active monthly assistance allowance for a respective Olympic or Paralympic event.

§ 76.20 Application, certification.

To receive a monthly assistance allowance under this part, an eligible veteran must submit the following:

(a) A complete application; and

(b) A complete certification, subject to paragraph (b)(3) of this section, signed by an authorized representative from the national governing body, that specifies whether payment is due for training, competition, or residence; the level of performance accomplished; and the dates of the training, competition, or residence for the period for which payment is requested.

(1) *Paralympic events.* (i) For Paralympic events, the national governing body must additionally certify that the veteran meets the applicable classification criteria prescribed by the IPC Athlete Classification Code (as incorporated by reference in § 76.1);

(ii) A national governing body for a Paralympic event will work cooperatively with VA in the establishment of Paralympic event performance standards. For emerging athletes not on a National Team in a Paralympic event, performance standards may consist of initial entry standards and increasing performance standards over time for progress as a training Paralympic athlete.

(iii) The national governing body will act as lead in classification and certification of an eligible veteran's performance, but VA will make final determination on performance standards in a Paralympic event and the frequency of the certification.

(2) *Olympic events.* For Olympic events, the national governing body must certify the veteran's status as a National Team member.

(3) *Waivers.* Waivers for the certification requirement may be allowed at VA's discretion in exceptional circumstances.

(c) *Frequency of submission of the training and competition plan and certification.*

(1) *Training and competition plans.* Eligible veterans must submit their established training and competition plans in monthly reports in order to continue receiving the monthly assistance allowance.

(2) *Certification.* An eligible veteran must resubmit a certification at least every twelve months to continue to receive a monthly assistance allowance after the initial twelve month period.

(The Office of Management and Budget has approved the information collection provisions in this section under control number 2900-0760).

§ 76.25 Monthly assistance allowance amount.

(a) VA may pay a monthly assistance allowance at the rate payable to a veteran, including those with dependents, who is in a full-time institutional program under title 38 United States Code (Chapter 31).

(b) When a veteran meets allowance standards for less than a full month, the payment is prorated for the portion of the month certified and may be made at 1/30 of the monthly rate to eligible veterans who train or compete in an event sanctioned by a national governing body for each day of training or competition.

(c) Payment may be made at 1/30 of the monthly rate to eligible veterans who reside at a U.S. Olympic and Paralympic Committee Training Center for each day of residence.

(d) In providing the monthly assistance allowance, VA will issue payments on a monthly basis.

(e) VA will periodically assess funding for the allowance during the fiscal year. If a periodic assessment reveals that funding is insufficient to pay all eligible veterans for the duration of the appropriation period, VA will first pay in full eligible veterans with service-connected disabilities.

§ 76.30 Reclassification and change in event.

(a) *Reclassification.* (1) If an eligible veteran is reclassified by a national governing body the following must occur:

(i) The eligible veteran must achieve the performance standard or higher, as stated in § 76.20(b)(1), in the eligible veteran's new classification for the event;

(ii) The performance standard must be achieved no later than six months after the date of reclassification.

(2) The eligible veteran will continue to receive an allowance under this part as long as all other applicable standards and requirements under this part continue to be met.

(b) *Change in event.* If an eligible veteran changes the event for which they have been approved for an allowance under this part, they must meet all applicable standards and requirements stated in § 76.20 for the new event to receive an allowance under this part.

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