DEPARTMI **8320-01**

38 CFR Part 17

RIN 2900-AS32

Rescission of Outdated Veterans Choice Program Regulations

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is rescinding obsolete regulations that were previously implemented for the Veterans Choice Program, which has been replaced by the Veterans Community Care Program as of June 6, 2019.

DATES: This rule is effective on [**INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**].

FOR FURTHER INFORMATION CONTACT: Joseph Duran, Veterans Health Administration, (303) 370-1637.

SUPPLEMENTARY INFORMATION:

I. Background

Historically, section 1703 of title 38, United States Code (U.S.C.) was the primary statutory authority that authorized VA to provide care in the community. In 2014, the Veterans Access, Choice, and Accountability Act of 2014 (Public Law 113–146; 38 U.S.C. 1701 note) (the Choice Act) established an additional authority that became VA's primary mechanism to provide such care. The care provided under the Choice Act was referred to as the Veterans Choice Program. VA implemented this authority in regulation at 38 Code of Federal Regulations (CFR) 17.1500 through 17.1540.

On June 6, 2018, the John S. McCain III, Daniel K. Akaka, and Samuel R. Johnson VA Maintaining Internal Systems and Strengthening Integrated Outside Networks (MISSION) Act was signed into law. Section 101 of the MISSION Act amended 38 U.S.C. 1703 and created a new Veterans Community Care Program

(VCCP) which, among other things, replaced the Veterans Choice Program. On June 6, 2019, the VCCP became the primary authority under which VA would authorize covered veterans to receive community care through eligible entities or providers. The Veterans Choice Program's statutory authority expired pursuant to section 143 of the MISSION Act on June 6, 2019 (Public Law 113–146; 38 U.S.C. 1701 note).

When VA implemented the MISSION Act, VA created new regulations to implement VCCP. See 84 FR 26278, 26307 (June 6, 2019), 38 CFR 17.4000 through 17.4040. In that rulemaking, VA did not remove the Veterans Choice Program regulations, §§ 17.1500 through 17.1540. See 84 FR 26278, 26307. Although the authority to furnish new episodes of care through the Veterans Choice Program expired as of June 6, 2019, there were some provisions in the Veterans Choice Program regulations (such as those provisions related to payment rates and limits on authorized care) that needed to stay in effect for the resolution of claims arising from the Veterans Choice Program that were still in process after June 6, 2019, for episodes of care performed under the Veterans Choice Program prior to June 6, 2019. See 84 FR 5630 (February 22, 2019). Therefore, VA made conforming amendments only, and provisions related to payment rates and limits on authorized care remained in effect for the resolution of those claims. VA noted in that rulemaking that further amendments to the existing regulations would be needed in the future to repeal and remove references to the regulations governing these outdated programs. See 84 FR 5629, 5630.

At this time, VA believes that there is no possibility that any episode of care approved under the Veterans Choice Program regulations could still be active. An episode of care under the Veterans Choice Program could not exceed one year in length, and the Veterans Choice Program terminated on June 6, 2019. As there are no remaining episodes of care still pending resolution under the Veterans Choice Program, VA will rescind the Veterans Choice Program regulations and remove references to the

program throughout 38 CFR part 17.

II. Changes to VA Regulations

A. Recission of Veterans Choice Program Regulations

Sections 17.1500 through 17.1540 implemented the Veterans Choice Program, as authorized by the Choice Act. As the authority for this program is now expired with no active episodes of care or pending payments, VA will remove §§ 17.1500 through 17.1540. VA will also remove the undesignated center heading which appears above § 17.1500 and states “Expanded Access to Non-VA Care Through the Veterans Choice Program.”

B. Removal of References to Veterans Choice Program

38 CFR 17.108 Copayments for inpatient hospital care and outpatient medical care.

In § 17.108, VA will remove references to the Veterans Choice Program by removing the phrase “the Veterans Choice Program under §§ 17.1500 through 17.1540, or” from the first sentences of paragraphs (b)(4) and (c)(4).

38 CFR 17.110 Copayments for medication.

In § 17.110, VA will remove references to the Veterans Choice Program in paragraph (b)(4). VA will replace the word “Choice” with the words “Community Care” in the paragraph heading and remove the phrase “the Veterans Choice Program under §§ 17.1500 through 17.1540, or” from the first sentence of paragraph (b)(4).

38 CFR 17.111 Copayments for extended care services.

In § 17.111, VA will remove the phrase “the Veterans Choice Program under §§ 17.1500 through 17.1540,” from the first sentence of paragraph (b)(3).

Administrative Procedure Act

The Secretary of Veterans Affairs finds that there is good cause under the Administrative Procedure Act (APA), 5 U.S.C. 553, to publish this rule without prior

opportunity for public comment. Pursuant to 5 U.S.C. 553(b)(B), general notice and opportunity for public comment are not required with respect to a rulemaking when an "agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest."

The notice and public procedure are unnecessary in this instance. This final rule removes outdated sections from 38 CFR part 17, that established the Veterans Choice Program or referenced the Veterans Choice Program. However, as the authority governing the Veterans Choice Program expired on June 6, 2019, and was replaced by the VCCP, VA cannot provide care pursuant to these regulations and they are therefore obsolete. Thus, the Secretary of Veterans Affairs finds that it is unnecessary to delay issuance of this rule for the purpose of soliciting prior public comment.

Executive Orders 12866, 13563, and 14192

VA examined the impact of this rulemaking as required by Executive Orders 12866 (Sept. 30, 1993) and 13563 (Jan. 18, 2011), which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. The Office of Information and Regulatory Affairs has determined that this rulemaking is not a significant regulatory action under Executive Order 12866, as supplemented by Executive Order 13563. Additionally, VA examined this final rule and has determined that it is consistent with the policies and directives outlined in Executive Order 14192, Unleashing Prosperity Through Deregulation (90 FR 2065, Feb. 6, 2025), and is considered an Executive Order 14192 deregulatory action.

Economic Impact: VA has classified this as a deregulatory action because it repeals obsolete regulations related to the former Veterans Choice Program and removes outdated references in VA regulations. These provisions are no longer

operative following the successful transition to the VCCP, and no remaining Choice Program claims require regulatory support. The removal of these sections imposes no new costs, transfers, operational changes, system modifications, or reporting burdens on VA or external stakeholders. Instead, it reduces regulatory complexity by eliminating outdated requirements and clarifies applicability of current community care regulations. This results in qualitative deregulatory benefits through improved regulatory clarity and administrative efficiency.

Regulatory Flexibility Act

The Secretary hereby certifies that this final 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 is because this Veterans Choice Program is no longer in effect. 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 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. 2 U.S.C. 1532. This final rule will have no such effect on State, local, and tribal governments, or on the private sector.

Paperwork Reduction Act

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

Congressional Review Act

Pursuant to Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (known as the Congressional Review Act) (5 U.S.C. 801 et seq.), the Office

of Information and Regulatory Affairs designated this rule as not satisfying the criteria under 5 U.S.C. 804(2).

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

SIGNING AUTHORITY

Douglas A. Collins, Secretary of Veterans Affairs, approved this document on July 21, 2026, 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.

Gabriela DeCuir,

Alternative Federal Register Liaison Officer, Department of Veterans Affairs.

For the reasons stated in the preamble, the Department of Veterans Affairs amends 38 CFR part 17 as set forth below:

PART 17—MEDICAL

1. The authority citation for part 17 continues to read as follows:

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

* * * * *

2. Remove the undesignated center heading "Expanded Access to Non-VA Care Through the Veterans Choice Program" immediately above § 17.1500.

§§ 17.1500 through 17.1540 [Removed]

3. Remove §§ 17.1500 through 17.1540.

§ 17.108 [Amended]

4. Amend § 17.108 by removing the phrase “the Veterans Choice Program under §§ 17.1500 through 17.1540, or”, wherever it appears.

§ 17.110 [Amended]

5. Amend § 17.110(b)(4) by:

a. In the paragraph heading, removing the word “Choice” and adding, in its place, the words “Community Care”.

b. In the first sentence, removing the phrase “the Veterans Choice Program under §§ 17.1500 through 17.1540, or”.

6. Amend § 17.111 by revising the first sentence of paragraph (b)(3) to read as

follows:

§ 17.111 Copayments for extended care services.

* * * * *

(b) * * *

(3) For hospital care and medical services considered non-institutional care, as well as extended care services, furnished through the Veterans Community Care Program under §§ 17.4000 through 17.4040, the copayment amount at the time of furnishing such care or services by a non-VA entity or provider is $0. * * *

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