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Title 38, Parts 17, 46, 47, 51–53,  
58–62, 70, 71, and 200

*Medical*

**Veterans Benefits Administration**

Supplement No. 72

Covering period of *Federal Register* issues  
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# GENERAL INSTRUCTIONS

Custom Federal Regulations Service™

## Supplemental Materials for *Book I*

Code of Federal Regulations

Title 38, Parts 17, 46, 47, 51–53, 58–62, 70, 71, and 200

*Medical*

## Veterans Benefits Administration

Supplement No. 72

5 October 2012

Covering the period of Federal Register issues  
through October 1, 2012

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## FILING INSTRUCTIONS

**Book I, Supplement No. 72  
October 5, 2011**

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# HIGHLIGHTS

## Book I, Supplement No. 72 October 5, 2012

**Supplement Highlights references:** Where substantive changes are made in the text of regulations, the paragraphs of *Highlights* sections are cited at the end of the relevant section of text. Thus, if you are reading §17.100, you will see a note at the end of that section which reads: “Supplement *Highlights* references—37(1).” This means that paragraph 1 of the *Highlights* section in Supplement No. 37 contains information about the changes made in §17.100. By keeping and filing the *Highlights* sections, you will have a reference source explaining all substantive changes in the text of the regulations.

**Supplement frequency:** Beginning 1 January 2000, supplements for this Book I will be issued *every month* during which a final rule addition or modification is made to the parts of Title 38 covered by this book. Supplements will be numbered consecutively as issued.

### **Modifications in this supplement include the following:**

1. On 5 September 2012 the VA published a final rule effective 5 October 2012, to amend its regulations concerning veterans in need of service dogs. Changes:

- Added §17.148; and
- Revised §17.154.

2. On 26 September 2012 the VA published a final rule effective 26 October 2012, to amend its regulations concerning Fisher Houses and other temporary lodging furnished by VA while a veteran is experiencing an episode of care at a VA health care facility. Change:

- Revised entire Part 60.



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**§17.142 Authority to approve sharing agreements, contracts for scarce medical specialist services and contracts for other medical services.**

The Under Secretary for Health is delegated authority to enter into

(a) Sharing agreements authorized under the provisions of 38 U.S.C. 8153 and §17.210 and which may be negotiated pursuant to the provisions of 41 CFR 8-3.204(c);

(b) Contracts with schools and colleges of medicine, osteopathy, dentistry, podiatry, optometry, and nursing, clinics, and any other group or individual capable of furnishing such services to provide scarce medical specialist services at Department of Veterans Affairs health care facilities (including, but not limited to, services of physicians, dentists, podiatrists, optometrists, nurses, physicians' assistants, expanded function dental auxiliaries, technicians, and other medical support personnel); and

(c) When a sharing agreement or contract for scarce medical specialist services is not warranted, contracts authorized under the provisions of 38 U.S.C. 513 for medical and ancillary services. The authority under this section generally will be exercised by approval of proposed contracts or agreements negotiated at the health care facility level. Such approval, however, will not be necessary in the case of any purchase order or individual authorization for which authority has been delegated in §17.99. All such contracts and agreements will be negotiated pursuant to 41 CFR chapters 1 and 8. (Authority: 38 U.S.C. 512, 513, 7409, 8153)

[45 FR 6938, Jan. 31, 1980. Redesignated at 61 FR 21966, May 13, 1996, as amended at 62 FR 17072, Apr. 9, 1997]

*Next Section is §17.148*

## Prosthetic, Sensory, and Rehabilitative Aids

### §17.148 Service dogs.

(a) *Definitions.* For the purposes of this section:

*Service dogs* are guide or service dogs prescribed for a disabled veteran under this section.

(b) *Clinical requirements.* VA will provide benefits under this section to a veteran with a service dog only if:

(1) The veteran is diagnosed as having a visual, hearing, or substantial mobility impairment; and

(2) The VA clinical team that is treating the veteran for such impairment determines based upon medical judgment that it is optimal for the veteran to manage the impairment and live independently through the assistance of a trained service dog. Note: If other means (such as technological devices or rehabilitative therapy) will provide the same level of independence, then VA will not authorize benefits under this section.

(3) For the purposes of this section, substantial mobility impairment means a spinal cord injury or dysfunction or other chronic impairment that substantially limits mobility. A chronic impairment that substantially limits mobility includes but is not limited to a traumatic brain injury that compromises a veteran's ability to make appropriate decisions based on environmental cues (i.e., traffic lights or dangerous obstacles) or a seizure disorder that causes a veteran to become immobile during and after a seizure event.

(c) *Recognized service dogs.* VA will recognize, for the purpose of paying benefits under this section, the following service dogs:

(1) The dog and veteran must have successfully completed a training program offered by an organization accredited by Assistance Dogs International or the International Guide Dog Federation, or both (for dogs that perform both service- and guide-dog assistance). The veteran must provide to VA a certificate showing successful completion issued by the accredited organization that provided such program.

(2) Dogs obtained before September 5, 2012 will be recognized if a guide or service dog training organization in existence before September 5, 2012 certifies that the veteran and dog, as a team, successfully completed, no later than September 5, 2013, a training program offered by that training organization. The veteran must provide to VA a certificate showing successful completion issued by the organization that provided such program. Alternatively, the veteran and dog will be recognized if they comply with paragraph (c)(1) of this section.

(d) *Authorized benefits.* Except as noted in paragraph (d)(3) of this section, VA will provide to a veteran enrolled under 38 U.S.C. 1705 only the following benefits for one service dog at any given time in accordance with this section:

(1) A commercially available insurance policy, to the extent commercially practicable, that meets the following minimum requirements:

(i) VA, and not the veteran, will be billed for any premiums, copayments, or deductibles associated with the policy; however, the veteran will be responsible for any cost of care that exceeds the maximum amount authorized by the policy for a particular procedure, course of treatment, or policy year. If a dog requires care that may exceed the policy's limit, the insurer will, whenever reasonably possible under the circumstances, provide advance notice to the veteran.

(ii) The policy will guarantee coverage for all treatment (and associated prescription medications), subject to premiums, co-payments, deductibles or annual caps, determined to be medically necessary, including euthanasia, by any veterinarian who meets the requirements of the insurer. The veteran will not be billed for these covered costs, and the insurer will directly reimburse the provider.

(iii) The policy will not exclude dogs with preexisting conditions that do not prevent the dog from being a service dog.

(2) Hardware, or repairs or replacements for hardware, that are clinically determined to be required by the dog to perform the tasks necessary to assist the veteran with his or her impairment. To obtain such devices, the veteran must contact the Prosthetic and Sensory Aids Service at his or her local VA medical facility and request the items needed.

(3) Payments for travel expenses associated with obtaining a dog under paragraph (c)(1) of this section. Travel costs will be provided only to a veteran who has been prescribed a service dog by a VA clinical team under paragraph (b) of this section. Payments will be made as if the veteran is an eligible beneficiary under 38 U.S.C. 111 and 38 CFR part 70, without regard to whether the veteran meets the eligibility criteria as set forth in 38 CFR part 70. Note: VA will provide payment for travel expenses related to obtaining a replacement service dog, even if the veteran is receiving other benefits under this section for the service dog that the veteran needs to replace.

(4) The veteran is responsible for procuring and paying for any items or expenses not authorized by this section. This means that VA will not pay for items such as license tags, nonprescription food, grooming, insurance for personal injury, non-sedated dental cleanings, nail trimming, boarding, pet-sitting or dog-walking services, over-the-counter medications, or other goods and services not covered by the policy. The dog is not the property of VA; VA will never assume responsibility for, or take possession of, any service dog.

(e) *Dog must maintain ability to function as a service dog.* To continue to receive benefits under this section, the service dog must maintain its ability to function as a service dog. If at any time VA learns from any source that the dog is medically unable to maintain that role, or VA makes a clinical determination that the veteran no longer requires the dog, VA will provide at least 30 days notice to the veteran before benefits will no longer be authorized. (Authority: 38 U.S.C. 501, 1714)

[77 FR 54381, Sep. 5, 2012]

**Supplement *Highlights* reference:** 72(1)

Reserved

### Prosthetic, Sensory, and Rehabilitative Aids

#### §17.149 Sensory-neural aids.

(a) Notwithstanding any other provision of this part, VA will furnish needed sensory-neural aids (i.e., eyeglasses, contact lenses, hearing aids) only to veterans otherwise receiving VA care or services and only as provided in this section.

(b) VA will furnish needed sensory-neural aids (i.e., eyeglasses, contact lenses, hearing aids) to the following veterans:

- (1) Those with a compensable service-connected disability;
- (2) Those who are former prisoners of war;
- (3) Those awarded a Purple Heart;
- (4) Those in receipt of benefits under 38 U.S.C. 1151;
- (5) Those in receipt of increased pension based on the need for regular aid and attendance or by reason of being permanently housebound;
- (6) Those who have a visual or hearing impairment that resulted from the existence of another medical condition for which the veteran is receiving VA care, or which resulted from treatment of that medical condition;
- (7) Those with a significant functional or cognitive impairment evidenced by deficiencies in activities of daily living, but not including normally occurring visual or hearing impairments; and
- (8) Those visually or hearing impaired so severely that the provision of sensory-neural aids is necessary to permit active participation in their own medical treatment.

(c) VA will furnish needed hearing aids to those veterans who have service-connected hearing disabilities rated 0 percent if there is organic conductive, mixed, or sensory hearing impairment, and loss of pure tone hearing sensitivity in the low, mid, or high-frequency range or a combination of frequency ranges which contribute to a loss of communication ability; however, hearing aids are to be provided only as needed for the service-connected hearing disability. (Authority: 38 U.S.C. 501, 1707(b))

[62 FR 30242, June 3, 1997, as amended at 62 FR 64722, Dec. 9, 1997; 69 FR 33575, June 16, 2004]

**Supplement *Highlights* reference: 23(2)**

**§17.153 Training in the use of appliances.**

Beneficiaries supplied prosthetic and similar appliances will be additionally entitled to fitting and training in the use of the appliances. Such training will usually be given in Department of Veterans Affairs facilities and by Department of Veterans Affairs employees, but may be obtained under contract if determined necessary.

[26 FR 5871, June 30, 1961. Redesignated at 61 FR 21966, May 13, 1996]

**§17.154 Equipment for blind veterans.**

VA may furnish mechanical and/or electronic equipment considered necessary as aids to overcoming the handicap of blindness to blind veterans entitled to disability compensation for a service-connected disability. (Authority: 38 U.S.C. 1714)

[26 FR 5872, June 30, 1961. Redesignated at 61 FR 21966, May 13, 1996; as amended at 77 FR 54382, Sep. 5, 2012]

### **Automotive Equipment and Driver Training**

#### **§17.155 Minimum standards of safety and quality for automotive adaptive equipment.**

(a) The Under Secretary for Health or designee is authorized to develop and establish minimum standards of safety and quality for adaptive equipment provided under 38 U.S.C. chapter 39.

(b) In the performance of this function, the following considerations will apply:

(1) Minimum standards of safety and quality will be developed and promulgated for basic adaptive equipment specifically designed to facilitate operation and use of standard passenger motor vehicles by persons who have specified types of disablement and for the installation of such equipment.

(2) In those instances where custom-built adaptive equipment is designed and installed to meet the peculiar needs of uniquely disabled persons and where the incidence of probable usage is not such as to justify development of formal standards, such equipment will be inspected and, if in order, approved for use by a qualified designee of the Under Secretary for Health.

(3) Adaptive equipment, available to the general public, which is manufactured under standards of safety imposed by a Federal agency having authority to establish the same, shall be deemed to meet required standards for use as adaptive equipment. These include such items as automatic transmissions, power brakes, power steering and other automotive options.

(c) For those items where specific Department of Veterans Affairs standards of safety and quality have not as yet been developed, or where such standards are otherwise provided as with custom-designed or factory option items, authorization of suitable adaptive equipment will not be delayed. Approval of such adaptive equipment, however, shall be subject to the judgment of designated certifying officials that it meets implicit standards of safety and quality adopted by the industry or as later developed by the Department of Veterans Affairs.

[40 FR 8819, Mar. 3, 1975. Redesignated at 61 FR 21966, May 13, 1996, as amended at 62 FR 17072, Apr. 9, 1997]

# **Part 60**

## **Fisher Houses and Other Temporary Lodging**

Reserved

**Part 60**

**Fisher Houses and Other Temporary Lodging**

**Authority:** 38 U.S.C. 501, 1708.

**Source:** 77 Fed. Reg. 59089, September 26, 2012, unless otherwise indicated.

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Reserved

## Part 60

### Fisher Houses and Other Temporary Lodging

*Authority:* 38 U.S.C. 501, 1708.

*Source:* 77 Fed. Reg. 59089, September 26, 2012, unless otherwise indicated.

*Supplement Highlights Reference for Part 60:* I-15(1), unless otherwise indicated.

#### §60.1 Purpose and scope.

This part applies to Fisher House and other temporary lodging furnished by VA while a veteran is experiencing an episode of care at a VA health care facility. (Authority: 38 U.S.C. 501, 1708)

[77 FR 59089, Sep. 26, 2012]

**Supplement *Highlights* reference:** 72(2)

**§60.2 Definitions.**

For the purposes of this part:

*Accompanying individual* means an individual seeking Fisher House or other temporary lodging, who provides familial support or the equivalent of familial support, to a veteran while the veteran is experiencing an episode of care. This term is defined broadly to include relatives, close friends, and caregivers.

*Compensation and pension examination* means an examination requested by VA's Veterans Benefits Administration to be conducted at a VA health care facility for the purpose of evaluating a veteran's claim.

*Episode of care* means a course of outpatient treatment, or a period of hospitalization, during which a veteran receives health care under 38 U.S.C. chapter 17, or 38 U.S.C. 8111 or 8153. Examples of episodes of care include (but are not limited to) the following:

- (1) An appointment at a VA health care facility to receive health care or a compensation and pension examination.
- (2) Extended outpatient treatment, such as treatment associated with organ transplant, chemotherapy, or radiation.
- (3) Hospitalization for a critical injury or illness; where death is imminent; or where a veteran is unable to make medical decisions for him/herself and the accompanying individual is authorized to make such decisions on the veteran's behalf.

*Fisher House* means a housing facility that is located at or near a VA health care facility and was constructed by and donated to VA by the Fisher House Foundation (formerly the Zachary and Elizabeth M. Fisher Armed Services Foundation), or a facility that is treated as if it were Fisher House lodging under § 60.3.

*Other temporary lodging* includes:

- (1) Lodging at a temporary lodging facility, other than a Fisher House, located at a VA health care facility (generally referred to as a “hoptel”);
- (2) A hotel or motel;
- (3) Non-utilized beds at a VA health care facility designated as lodging beds; and
- (4) Other donated lodging to be used on a temporary basis in accordance with 38 U.S.C. 1708.

VA means the Department of Veterans Affairs.

(Authority: 38 U.S.C. 501, 1708)

[77 FR 59089, Sep. 26, 2012]

**Supplement *Highlights* reference:** 72(2)

**§60.3 Other donated temporary lodging.**

Whenever VA receives, from a source other than the Fisher House Foundation, an undesignated donation of lodging to be used on a temporary basis, the lodging will be designated as if it were Fisher House lodging or be treated as other temporary lodging based upon the types of lodging available in the area. If VA receives a gift that specifies the terms of the lodging provided, VA will use the lodging provided in the manner specified by the donor.

(Authority: 38 U.S.C. 501, 1708, 8103, 8104)

[77 FR 59089, Sep. 26, 2012]

**Supplement *Highlights* reference:** 72(2)

**§60.10 Eligibility criteria for Fisher House or other temporary lodging.**

(a) *General.* While a veteran is undergoing an episode of care, VA may provide either Fisher House or other temporary lodging, as appropriate, if the application meets the requirements of this part 60. These are the only types of lodging provided by VA under this part. Note: Lodging provided for under this part will not be used by a person participating in a VA residential treatment program, or as a substitute for participation in such a program.

(b) *Eligible persons.*

(1) *Fisher House.* VA may provide Fisher House lodging to accompanying individual(s) and, in limited circumstances of immediate need and no alternative temporary lodging, to a veteran with one or more accompanying individual(s). Fisher House lodging will not be used to lodge unaccompanied veterans or individuals in need of transitional or permanent housing. Note: VA does not impose a general limit on the number of persons who may accompany a veteran, but VA may in specific cases provide lodging to only a specific number of persons due to space or resource limitations.

(2) *Other temporary lodging.* VA may provide other temporary lodging to a veteran or to a veteran and his or her accompanying individual(s). Accompanying individuals may not stay in other temporary lodging unless the veteran is also staying in temporary lodging. **Note:** VA does not impose a general limit on the number of persons who may accompany a veteran, but VA may in specific cases provide lodging to only a specific number of persons due to space or resource limitations.

(c) *Condition of the veteran.* Fisher House or other temporary lodging will not be provided to a veteran unless the VA official reviewing the application determines, based on the application and on any necessary clinical information, that the veteran is:

- (1) Medically stable and capable of self-care; or
- (2) Accompanied by an individual who is able to provide all necessary care.

(d) *Travel time/distance requirement.* Fisher House or other temporary lodging may be provided only if the applicant seeking lodging must travel at least 50 miles, or for 2 hours, from his or her home to the VA health care facility. VA may waive these requirements based on exceptional circumstances, such as when the physical condition of an accompanying individual and/or the veteran, inclement weather, road conditions, or the mode of transportation, make it difficult or dangerous to travel to or return from the VA health care facility without an overnight stay.

(e) *Special authority for organ transplant cases.* Notwithstanding any other provision of this part, VA may provide Fisher House or other temporary lodging for individuals who must be present on site for evaluation, donation, and care related to their status as an organ donor for a veteran. VA may also provide Fisher House or other temporary lodging for the donor's accompanying individuals at all phases of the transplant process. (Authority: 38 U.S.C. 501, 1708, 1710(a))

[77 FR 59089, Sep. 26, 2012]

**Supplement *Highlights* reference:** 72(2)

### §60.15 Application process

(a) *Obtaining and submitting the application.* VA Form 10-0408A is the application for Fisher House and other temporary lodging. Applications may be submitted by mail, telephone, facsimile, in person, or electronically. VA Form 10-0408A is available from any VA health care facility or may be obtained online at <http://vaww4.va.gov/vaforms/medical/pdf/vha-10-0408A-fill.pdf>. The completed application must be submitted as follows:

(1) For Fisher House lodging, to the Fisher House Manager at the VA health care facility of jurisdiction.

(2) For other temporary lodging, to the temporary lodging program coordinator at the VA health care facility of jurisdiction.

(b) *Processing applications.*

(1) Applications are generally processed in the order that they are received by VA, and temporary lodging is then granted on a first come first serve basis; however, in extraordinary circumstances, such as imminent death, critical injury, or organ donation applications may be processed out of order.

(2) Temporary lodging is granted on a space-available basis, with some consideration given to the compatibility of the applicant(s) and the room(s) available. For example, although VA may require an applicant to share a room with another veteran's accompanying individual, VA would not do so if the persons affected are not the same gender.

(3) Temporary lodging at a VA health care facility, such as non-utilized beds in a VA health care facility, may be made available only if not barred by law and if the Director of the VA health care facility determines that such action would not have a negative impact on patient care. Non-utilized beds provided to accompanying individuals must be reassigned to VA patients when necessary.

(4) The Director of the VA health care facility of jurisdiction will determine whether local funding is sufficient to allow the use of temporary lodging in hotels and motels.

(5) Subject to all criteria provided in this part, the person responsible for coordinating the Fisher House and other temporary lodging program(s) at the VA health care facility of jurisdiction is responsible for making decisions to grant temporary lodging. These decisions are considered to be final VA decisions concerning individual medical treatment plans and the scheduling and use of VA lodging facilities, and they are not appealable to the Board of Veterans' Appeals.

(6) If VA denies an application for one type of lodging, such as at a Fisher House, the application will be considered for other temporary lodging and vice versa, if the applicant is eligible.

(7) If VA denies the application for all types of temporary lodging, VA will refer the application to a VA social worker at the VA health care facility of jurisdiction to determine if other arrangements can be made.

(c) Costs for Fisher House and other temporary lodging under this part are borne by VA.

(Authority: 38 U.S.C. 501, 1708)

(The Office of Management and Budget has approved the information collection requirements in this section under OMB control number 2900-0630)

[77 FR 59090, Sep. 26, 2012]

**Supplement *Highlights* reference:** 72(2)

**§60.20 Duration of Fisher House or other temporary lodging**

Fisher House or other temporary lodging may be awarded for the following periods:

- (a) While the veteran is undergoing an episode of care.
- (b) While the veteran is hospitalized, if the veteran is admitted to a VA health care facility while undergoing an outpatient episode of care for which temporary lodging was already provided.
- (c) As extended by the appropriate VA clinician or social worker based on an emergency situation or unforeseen circumstances.
- (d) For an indefinite period for accompanying individuals who are visiting veterans hospitalized for an indefinite period, provided that the accompanying individual is not using a VA health care facility bed. Whether a veteran is hospitalized for an indefinite period will be based upon the treatment or rehabilitation needs of the veteran as determined by the veteran's health care team.
- (e) Temporary lodging may be furnished the night before the day of a scheduled appointment if, the veteran leaving home after 8:00 a.m., would be unable to arrive at the VA health care facility by the time of the scheduled appointment.
- (f) Temporary lodging may be furnished the night of the scheduled appointment if, after the appointment, the veteran would be unable to return home before 7:00 p.m. When a veteran is undergoing outpatient treatment or procedures the veteran and accompanying individual(s) may be furnished temporary lodging for the duration of the episode of care subject to limitations described in this section.

(Authority: 38 U.S.C. 501, 1708)

[77 FR 59090, Sep. 26, 2012]

**Supplement *Highlights* reference: 72(2)**

Reserved