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**This is supplemental material  
for Book I of your set of  
Federal Regulations**

Title 38, Parts 17, 46, 47, 51–53,  
58–61, and 70

*Medical*

**Veterans Benefits Administration**

Supplement No. 46

Covering period of *Federal Register* issues  
through May 3, 2009

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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, 58–61, and 70**

*Medical*

## **Veterans Benefits Administration**

**Supplement No. 46**

5 May 2009

Covering the period of Federal Register issues  
through May 3, 2009

When **Book I** was originally prepared, it was current through final regulations published in the *Federal Register* of 15 January 2000. These supplemental materials are designed to keep your regulations up to date. You should file the attached pages immediately, and record the fact that you did so on the *Supplement Filing Record* which is at page I-8 of Book I, *Medical*.

**To ensure accuracy and timeliness of your materials,  
it is important that you follow these simple procedures:**

1. Always file your supplemental materials immediately upon receipt.
2. Before filing, always check the Supplement Filing Record (page I-8) to be sure that all prior supplements have been filed. If you are missing any supplements, contact the Veterans Benefits Administration at the address listed on page I-2.
3. After filing, enter the relevant information on the Supplement Filing Record sheet (page I-8)—the date filed, name/initials of filer, and date through which the *Federal Register* is covered.
4. If as a result of a failure to file, or an undelivered supplement, you have more than one supplement to file at a time, be certain to file them in chronological order, lower number first.
5. Always retain the filing instructions (simply insert them at the back of the book) as a backup record of filing and for reference in case of a filing error.
6. Be certain that you *permanently discard* any pages indicated for removal in the filing instructions in order to avoid confusion later.

To execute the filing instructions, simply remove *and throw away* the pages listed under *Remove These Old Pages*, and replace them in each case with the corresponding pages from this supplement listed under *Add These New Pages*. Occasionally new pages will be added without removal of any old material (reflecting new regulations), and occasionally old pages will be removed without addition of any new material (reflecting rescinded regulations)—in these cases the word *None* will appear in the appropriate column.

**FILING INSTRUCTIONS**

**Book I, Supplement No. 46  
May 5, 2009**

<i>Remove these <u>old pages</u></i>	<i>Add these <u>new pages</u></i>	<i>Section(s) <u>Affected</u></i>
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**Do not file this supplement until you confirm that  
all prior supplements have been filed**

61.0-1 to 61.10-1	61.0-1 to 61.10-1	§61.1
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**Be sure to complete the  
*Supplement Filing Record* (page I-8)  
when you have finished filing this material.**

## HIGHLIGHTS

### Book I, Supplement No. 46 May 5, 2009

**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 23 April 2009, the VA published a final rule, effective that same date, to amend VA regulations by making nonsubstantive changes for purposes of clarity and accuracy. Changes in this Book I:

- Changed spelling of *posttraumatic* in the definition for *chronically mentally ill* in §61.1.



## Part 61

### VA Homeless Providers Grant and Per Diem Program

*Authority:* 38 U.S.C. 501, 2002, 2011, 2012, 2061, 2064, 7721 note.

*Source:* 68 Fed. Reg. 13594, March 19, 2003, unless otherwise indicated.

*Supplement Highlights Reference for Part 61:* I-15(3), unless otherwise indicated.

#### **§61.0 Purpose.**

This part implements the VA Homeless Providers Grant and Per Diem Program which consists of the following components: capital grants, per diem, special needs grants, and technical assistance grants. (Authority: 38 U.S.C. 501, 2002, 2011, 2012, 2061, 2064, 7721 note)

**§61.1 Definitions.**

For purposes of this part:

*Area or community* means a political subdivision or contiguous political subdivisions (such as precinct, ward, borough, city, county, State, Congressional district, etc.) with a separately identifiable population of homeless veterans.

*Capital grant* means a grant for construction, renovation, or acquisition of a facility; or for acquisition of a van.

*Capital lease* means a lease that will be in effect for the full period in which VA may recover all or portions of the capital grant amount under this part.

*Chronically mentally ill* means a condition of schizophrenia or major affective disorder (including bipolar disorder) or posttraumatic stress disorder (PTSD), based on a diagnosis from a licensed mental health professional, with at least one documented hospitalization for this condition sometime in the last 2 years or with documentation of a formal assessment on a standardized scale of any serious symptomology or serious impairment in the areas of work, family relations, thinking, or mood.

*Fee* means a fixed charge for a service offered by a recipient under this part, that is in addition to the services that are outlined in the recipient's application; and are not paid for by VA per diem or provided by VA, (e.g., cable television, recreational outings, professional instruction or counseling).

*Fixed site* means a physical structure that under normal conditions is not capable of readily being moved from one location to another location.

*Frail elderly* means 65 years of age or older with one or more chronic health problems and limitations in performing one or more activities of daily living (such as bathing, toileting, transferring from bed to chair, etc.)

*Homeless* means:

- (1) (i) Lacking a fixed, regular and adequate nighttime residence; or
- (ii) Having a primary nighttime residence that is:
  - (A) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);
  - (B) An institution that provides a temporary residence for persons intended to be institutionalized; or
  - (C) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

(2) The term *homeless* does not include imprisonment or other detainment pursuant to Federal or State law. Imprisonment or other detainment does not include probation, parole or electronic custody.

*New construction* means the building of a structure where none existed or an addition to an existing structure that increases the floor area by more than 100 percent.

*Nonprofit organization* means a private organization, no part of the net earnings of which may inure to the benefit of any member, founder, contributor, or individual. The organization must be recognized as a 501(c)(3) or 501(c)(19) nonprofit organization by the United States Internal Revenue Service, and:

- (1) Have a voluntary board;
- (2) Have a functioning accounting system that is operated in accordance with generally accepted accounting principles, or designate an entity that will maintain a functioning accounting system for the organization in accordance with generally accepted accounting principles; and
- (3) Practice nondiscrimination in the provision of supportive housing and supportive services assistance.

*Operating costs* means expenses incurred in operating supportive housing, supportive services or service centers with respect to:

- (1) Administration (including staff salaries; costs associated with accounting for the use of grant funds, preparing reports for submission to VA, obtaining program audits, and securing accreditation; and similar costs related to administering the grant after the award), maintenance, repair and security for the supportive housing;
- (2) Van costs or building rent (except under capital leases), *e.g.*, fuel, insurance, utilities, furnishings, and equipment;
- (3) Conducting on-going assessments of supportive services provided for and needed by participants and the availability of such services;
- (4) Other costs associated with operating the supportive housing.

*Outpatient health services* means outpatient health care, outpatient mental health services, outpatient alcohol and/or substance abuse services, and case management.

*Participant* means a person receiving services based on a grant or per diem provided under this part.

*Public entity* includes:

- (1) A county, municipality, city, town, township, local public authority (including any public and Indian housing agency under the United States Housing Act of 1937), school

district, special district, intrastate district, council of governments (whether or not incorporated as a nonprofit corporation under state law), any other regional or interstate government entity, or any agency or instrumentality of a local government, and

(2) The governing body or a governmental agency of any Indian tribe, band, nation, or other organized group or community (including any Native village as defined in section 3 of the Alaska Native Claims Settlement Act, 85 Stat 688) certified by the Secretary of the Interior as eligible for the special programs and services provided by the Bureau of Indian Affairs.

*Rehabilitation* means the improvement or repair of an existing structure. Rehabilitation does not include minor or routine repairs.

*State* means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State exclusive of local governments. The term does not include any public and Indian housing agency under United States Housing Act of 1937.

*Supportive housing* means housing with supportive services provided for homeless veterans and is:

- (1) Transitional housing, or
- (2) A part of, a particularly innovative project for, or alternative method of, meeting the immediate and long-term needs of homeless veterans.

*Supportive services* means services, which may be designed by the recipient or program participants, that provide appropriate services or assist such persons in obtaining appropriate services to address the needs of homeless veterans to be served by the project. Supportive services does not include inpatient acute hospital care, but does include:

- (1) Outreach activities;
- (2) Providing food, nutritional advice, counseling, health care, mental health treatment, alcohol and other substance abuse services, case management services;
- (3) Establishing and operating child care services for dependents of homeless veterans;
- (4) Providing supervision and security arrangements necessary for the protection of residents of supportive housing and for homeless veterans using supportive housing or services;
- (5) Providing assistance in obtaining permanent housing;
- (6) Providing education, employment counseling and assistance, and job training;
- (7) Providing assistance in obtaining other Federal, State and local assistance available for such residents including mental health benefits, employment

counseling and assistance, veterans' benefits, medical assistance, and income support assistance; and

- (8) Providing housing assistance, legal assistance, advocacy, transportation, and other services essential for achieving and maintaining independent living.

*Terminally ill* means a prognosis of 9 months or less to live based on a written medical diagnosis from a physician.

*VA* means the Department of Veterans Affairs.

*Veteran* means a person who served in the active military, naval, or air service, and who was discharged or released there from under conditions other than dishonorable. (Authority: 38 U.S.C. 501, 2002, 2011, 2012, 2061, 2064, 7721 note)

[68 FR 13594, Mar. 19, 2003, as amended at 74 FR 18467, Apr. 23, 2009]

**Supplement *Highlights* reference:** 46(1)

*Next Section is §61.10*

**§61.10 Capital grants—general.**

(a) VA provides capital grants to public or nonprofit private entities so they can assist homeless veterans by helping to ensure the availability of supportive housing and service centers to furnish outreach, rehabilitative services, vocational counseling and training, and transitional housing. Specifically, VA provides capital grants for up to 65 percent of the cost to:

- (1) Construct structures and purchase the underlying land to establish new supportive housing facilities or service centers, or to expand existing supportive housing facilities or service centers;
- (2) Acquire structures to establish new supportive housing facilities or service centers, or to expand existing supportive housing facilities or service centers;
- (3) Renovate existing structures to establish new supportive housing facilities or service centers, or to expand existing supportive housing facilities or service centers; and
- (4) Procure vans (purchase price, sales taxes, and title and licensing fees) to provide transportation or outreach for the purpose of providing supportive services.

(b) Capital grants may not be use for acquiring buildings located on VA-owned property. However, capital grants may be awarded for construction, expansion, or renovation of buildings located on VA-owned property. (Authority: 38 U.S.C. 501, 2002, 2011, 2012, 2061, 2064, 7721 note)