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

Medical

Veterans Benefits Administration

Supplement No. 48

Covering period of *Federal Register* issues
through July 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. 48

5 July 2009

Covering the period of Federal Register issues
through July 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.
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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new regulations), and occasionally old pages will be removed without addition of any new material (reflecting rescinded regulations)—in these cases the word *None* will appear in the appropriate column.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. 48
July 5, 2009**

*Remove these
old pages*

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*Section(s)
Affected*

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17.34-1 to 17.35-1	17.34-1 to 17.35-1	§17.35
17.123-1 to 17.125-1	17.123-1 to 17.125-1	§17.125
17.140-1 to 17.149-1	17.140-1 to 17.149-1	§17.141
17.272-10 to 17.273-1	17.272-10 to 17.273-1	§17.273

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HIGHLIGHTS

Book I, Supplement No. 48 July 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 25 June 2009, the VA published a final rule, effective 27 July 2009, to amend medical regulations applicable to the VA’s Foreign Medical Program, Hospital Care and Medical Services in Foreign Countries, by changing (a) provisions concerning the location for filing Foreign Medical Program claims, and (b) delegations of authority for adjudicating those claims. Changes:

- In §17.35, modified a cross-reference in paragraph (b);
- In §17.125, removed paragraph (c), redesignated paragraphs (d)–(e) as (c)–(d), and revised newly redesignated paragraph (c); and
- Revised §17.141.

2. On 1 July 2009, the VA published a final rule, effective 31 July 2009, to amend medical regulations for the Civilian Health and Medical Program preauthorization section by increasing the dollar ceiling for purchase or rental of durable medical equipment from \$300 to \$2,000. Change:

- In §17.273, revised paragraph (e).



Tentative Eligibility Determinations

§17.34 Tentative eligibility determinations.

Subject to the provisions of §§17.36 through 17.38, when an application for hospital care or other medical services, except outpatient dental care, has been filed which requires an adjudication as to service connection or a determination as to any other eligibility prerequisite which cannot immediately be established, the service (including transportation) may be authorized without further delay if it is determined that eligibility for care probably will be established. Tentative eligibility determinations under this section, however, will only be made if:

(a) *In emergencies.* The applicant needs hospital care or other medical services in emergency circumstances,

(b) *For persons recently discharged from service.* The application was filed within 6 months after date of honorable discharge from a period of not less than 6 months of active duty.

[36 FR 6586, Apr. 24, 1970. Redesignated at 61 FR 21965, May 13, 1996. Amended at 64 FR 54212, Oct. 6, 1999]

Supplement *Highlights* reference: 37(1)

**Hospital or Nursing Home Care and
Medical Services in Foreign Countries**

§17.35 Hospital care and medical services in foreign countries.

The Secretary may furnish hospital care and medical services to any veteran sojourning or residing outside the United States, without regard to the veteran's citizenship:

(a) If necessary for treatment of a service-connected disability, or any disability associated with and held to be aggravating a service-connected disability;

(b) If the care is furnished to a veteran participating in a rehabilitation program under 38 U.S.C. chapter 31 who requires care for the reasons enumerated in §17.47(i)(2). (Authority: 38 U.S.C. 1724)

[55 FR 11370, Mar. 28, 1990. Redesignated at 61 FR 21965, May 13, 1996; 74 FR 30228, June 25, 2009]

Supplement *Highlights* reference: 48(1)

§17.123 Claimants.

A claim for payment or reimbursement of services not previously authorized may be filed by the veteran who received the services (or his/her guardian) or by the hospital, clinic, or community resource which provided the services, or by a person other than the veteran who paid for the services.

[39 FR 1844, Jan. 15, 1974, as amended at 45 FR 53807, Aug. 13, 1980. Redesignated at 61 FR 21966, May 13, 1996]

§17.124 Preparation of claims.

Claims for costs of services not previously authorized shall be on such forms as shall be prescribed and shall include the following:

(a) The claimant shall specify the amount claimed and furnish bills, vouchers, invoices, or receipts or other documentary evidence establishing that such amount was paid or is owed, and

(b) The claimant shall provide an explanation of the circumstances necessitating the use of community medical care, services, or supplies instead of Department of Veterans Affairs care, services, or supplies, and

(c) The claimant shall furnish such other evidence or statements as are deemed necessary and requested for adjudication of the claim.

[33 FR 19011, Dec. 20, 1968, as amended at 39 FR 1844, Jan. 15, 1974. Redesignated at 61 FR 21966, May 13, 1996]

§17.125 Where to file claims.

Claims for payment or reimbursement of the expenses of services not previously authorized should be filed as follows:

(a) *For services rendered in the U.S.* Claims for the expenses of care or services rendered in the United States, including the Territories or possessions of the United States, should be filed with the Chief, Outpatient Service, or Clinic Director of the VA facility designated as a clinic or jurisdiction which serves the region in which the care or services were rendered. (Authority: 38 U.S.C. 7304)

(b) *For services rendered in the Philippines.* Claims for the expenses of care or services rendered in the Republic of the Philippines should be filed with the Department of Veterans Affairs Outpatient Clinic (358/00), 2201 Roxas Blvd., Pasay City, 1300, Republic of the Philippines.

(c) *For services rendered in other foreign countries.* Claims for the expenses of care or services rendered in other foreign countries must be mailed to the Health Administration Center, P.O. Box 469063, Denver, CO 80246-9063. (Authority: 38 U.S.C. 7304)

(d) *For services rendered in Puerto Rico.* Claims for the expenses of care or services rendered in the Commonwealth of Puerto Rico should be filed with the Department of Veterans Affairs Medical and Regional Office Center, San Juan, PR.

[33 FR 19011, Dec. 20, 1968, as amended at 39 FR 1844, Jan. 15, 1974; 45 FR 53807, Aug. 18, 1980; 51 FR 8673, Mar. 13, 1986. Redesignated and amended at 61 FR 21966, 21967, May 13, 1996; 74 FR 30228, June 25, 2009]

Delegations of Authority

§17.140 Authority to adjudicate reimbursement claims.

The Department of Veterans Affairs medical installation having responsibility for the fee basis program in the region or territory (including the Republic of the Philippines) served by such medical installation shall adjudicate all claims for the payment or reimbursement of the expenses of services not previously authorized rendered in the region or territory.

[39 FR 1844, Jan. 15, 1974. Redesignated at 61 FR 21966, May 13, 1996]

§17.141 Authority to adjudicate foreign reimbursement claims.

The Health Administration Center in Denver, CO, shall adjudicate claims for the payment or reimbursement of the expenses of services not previously authorized rendered in any foreign country except the Republic of the Philippines which will be referred to the VA Outpatient Clinic in Pasay City.

[39 FR 1844, Jan. 15, 1974, as amended at 45 FR 6938, Jan. 31, 1980. Redesignated and amended at 61 FR 21966, 21968, May 13, 1996; 74 FR 30228, June 25, 2009]

Supplement *Highlights* reference: 48(1)

§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 §17.149

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)

[63 FR 48102, Sept. 9, 1998, as amended at 67 FR 4359, Jan. 30, 2002; 67 FR 66554, Nov. 1, 2002; 73 FR 65553, Nov. 4, 2008]

Supplement *Highlights* references: 31(1), 7(1), 44(1).

§17.273 Preauthorization.

Preauthorization or advance approval is required for any of the following:

- (a) Non-emergent inpatient mental health and substance abuse care including admission of emotionally disturbed children and adolescents to residential treatment centers.
- (b) All admissions to a partial hospitalization program (including alcohol rehabilitation).
- (c) Outpatient mental health visits in excess of 23 per calendar year and/or more than two (2) sessions per week.
- (d) Dental care.
- (e) Durable medical equipment with a purchase or total rental price in excess of \$2,000.00.
- (f) Organ transplants. (Authority: 38 U.S.C. 501, 1781)

[63 FR 48102, Sept. 9, 1998, as amended at 73 FR 65553, Nov. 4, 2008; 74 FR 31374, July 1, 2009]

Supplement *Highlights* references: 31(1), 44(1), 48(2).