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## **Medical**

Book I

Title 38, Parts 17, 46, 47, 51–53,  
58–64, 70, 71, and 200

Supplement No. 101

Covering period of *Federal Register* issues  
through August 1, 2016

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Custom Federal Regulations Service™

**Supplemental Materials for *Book I***

**Code of Federal Regulations**

**Title 38, Parts 17, 46, 47, 51–53, 58–64, 70, 71, and 200**

***Medical***

**Supplement No. 101**

5 August 2016

Covering the period of Federal Register issues  
through August 1, 2016

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*.

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**FILING INSTRUCTIONS**

**Book I, Supplement No. 101  
August 5, 2016**

<i>Remove these old pages</i>	<i>Add these new pages</i>	<i>Section(s) Affected</i>
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I-11 to I-12	I-11 to I-12	Book I Lead Material
17.INDEX-7 to 17.INDEX-8	17.INDEX-7 to 17.INDEX-8	Part 17 Index
17.96-1 to 17.98-1	17.96-1 to 17.98-1	§§17.96 & 17.97
17.370-1 to 17.410-1	17.370-1 to 17.410-1	§17.400

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## HIGHLIGHTS

### Book I, Supplement No. 101 August 5, 2016

**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 18 July 2016, the VA published a final rule effective 17 August 2016, to remove its medical regulation that governs medications provided in Alaska and territories and possessions of the United States because this regulation is otherwise subsumed by another VA medical regulation related to provision of medications that are prescribed by non-VA providers. Changes:

- In §17.96, revised introductory paragraph; and
- Removed and reserved §17.97.

2. On 18 July 2016, the VA published a final rule effective that same day, to amend its regulations to reflect a statutory mandate that VA provide health care to certain veterans who served at Camp Lejeune, North Carolina, for at least 30 days during the period beginning on August 1, 1953, and ending on December 31, 1956. The law requires VA to furnish hospital care and medical services for these veterans for certain illnesses and conditions that may be attributed to exposure to toxins in the water system at Camp Lejeune. Change:

- Revised §17.400.



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**§17.96 Medication prescribed by non-VA physicians.**

Any prescription, which is not part of authorized Department of Veterans Affairs hospital or outpatient care, for drugs and medicines ordered by a private or non-Department of Veterans Affairs doctor of medicine or doctor of osteopathy duly licensed to practice in the jurisdiction where the prescription is written, shall be filled by a Department of Veterans Affairs pharmacy or a non-VA pharmacy under contract with VA, including non-VA pharmacy in a state home under contract with VA for filling prescriptions for patients in state homes, provided:

(a) The prescription is for:

(1) A veteran who by reason of being permanently housebound or in need of regular aid and attendance is in receipt of increased compensation under 38 U.S.C. chapter 11, or increased pension under section 3.1(u) (Section 306 Pension) or section 3.1(w) (Improved Pension), of this title, as a veteran of the Mexican Border Period, World War I, World War II, the Korean Conflict, or the Vietnam Era (or, although eligible for such pension, is in receipt of compensation as the greater benefit), or

(2) A veteran in need of regular aid and attendance who was formerly in receipt of increased pension as described in paragraph (a)(1) of this section whose pension has been discontinued solely by reason of excess income, but only so long as such veteran's annual income does not exceed the maximum annual income limitation by more than \$ 1,000, and

(b) The drugs and medicines are prescribed as specific therapy in the treatment of any of the veteran's illnesses or injuries. (Authority: 38 U.S.C. 1706, 1710, 1712(d))

[32 FR 13816, Oct. 4, 1967, as amended at 36 FR 4782, Mar. 12, 1971; 45 FR 6937, Jan. 31, 1980; 47 FR 58249, Dec. 30, 1982. Redesignated at 61 FR 21965, May 13, 1996; 63 FR 37780, July 14, 1998; 68 FR 11977, Mar. 13, 2003; 68 FR 43929, July 25, 2003; 74 FR 44291, Aug. 28, 2009; 79 FR 54615, Sep. 12, 2014; 81 FR 46602, July 18, 2016]

**Supplement *Highlights* references:** Book I—19(1), 50(1), 86(1), 101(1).

Reserved

**§17.97 [Removed and reserved].**

[32 FR 13816, Oct. 4, 1967. Redesignated and amended at 61 FR 21965, 21967, May 13, 1996; Removed and reserved at 81 FR 46602, July 18, 2016]

**§17.98 Mental health services.**

(a) Following the death of a veteran, bereavement counseling involving services defined in 38 U.S.C. 1783, may be furnished to persons who were receiving mental health services in connection with treatment of the veteran under 38 U.S.C. 1710, 1712A, or 1717, or 1781, prior to the veteran's death, but may only be furnished in instances where the veteran's death had been unexpected or occurred while the veteran was participating in a VA hospice or similar program. Bereavement counseling may be provided only to assist individuals with the emotional and psychological stress accompanying the veteran's death, and only for a limited period of time, as determined by the Medical Center Director, but not to exceed 60 days. The Medical Center Director may approve a longer period of time when medically indicated.

(b) For purposes of paragraph (a) of this section, an unexpected death is one which occurs when in the course of an illness the provider of care did not or could not have anticipated the timing of the death. Ordinarily, the provider of care can anticipate the patient's death and can inform the patient and family of the immediacy and certainty of death. If that has not taken place, a death can be described as unexpected. (Authority: 38 U.S.C. 1783)

[53 FR 7186, Mar. 7, 1988. Redesignated and amended at 61 FR 21965, 21967, May 13, 1996; 79 FR 54616, Sep. 12, 2014]

**Supplement *Highlights* reference:** 86(1).

**§17.370 Termination of payments.**

Payments may be terminated if the U.S. Department of Veterans Affairs determines the Veterans Memorial Medical Center has not replaced and upgraded as needed equipment during the period in which the agreements cited in §17.50 are in effect or has not rehabilitated the existing physical plant and facilities to place the medical center on a sound and effective operating basis, or has not maintained the medical center in a well-equipped and effective operating condition. Payments, however, will not be stopped unless the Veterans Memorial Medical Center has been given at least 60 days advance written notice of intent to stop payments. (Authority: 38 U.S.C. 1732)

[33 FR 5301, Apr. 3, 1968, as amended at 47 FR 58251, Dec. 30, 1982]

*Next Section is §17.400*

**§ 17.400 Hospital care and medical services for Camp Lejeune veterans.**

(a) *General.* In accordance with this section, VA will provide hospital care and medical services to Camp Lejeune veterans. Camp Lejeune veterans will be enrolled pursuant to §17.36(b)(6).

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

*Camp Lejeune* means any area within the borders of the U.S. Marine Corps Base Camp Lejeune or Marine Corps Air Station New River, North Carolina.

*Camp Lejeune veteran* means any veteran who served at Camp Lejeune on active duty, as defined in 38 U.S.C. 101(21), in the Armed Forces for at least 30 (consecutive or nonconsecutive) days during the period beginning on August 1, 1953, and ending on December 31, 1987. A veteran served at Camp Lejeune if he or she was stationed at Camp Lejeune, or traveled to Camp Lejeune as part of his or her professional duties.

*Covered illness or condition* means any of the following illnesses and conditions:

- (i) Esophageal cancer;
- (ii) Lung cancer;
- (iii) Breast cancer;
- (iv) Bladder cancer;
- (v) Kidney cancer;
- (vi) Leukemia;
- (vii) Multiple myeloma;
- (viii) Myelodysplastic syndromes;
- (ix) Renal toxicity;
- (x) Hepatic steatosis;
- (xi) Female infertility;
- (xii) Miscarriage;
- (xiii) Scleroderma;
- (xiv) Neurobehavioral effects; and
- (xv) Non-Hodgkin's lymphoma.

(c) *Limitations.* For a Camp Lejeune veteran, VA will assume that a covered illness or condition is attributable to the veteran's active duty service at Camp Lejeune unless it is clinically determined, under VA clinical practice guidelines, that such an illness or condition resulted from a cause other than such service.

(d) *Copayments*

(1) *Exemption.*

(i) Camp Lejeune veterans who served at Camp Lejeune between January 1, 1957, and December 31, 1987, are not subject to copayment requirements for hospital care and medical services provided for a covered illness or condition on or after August 6, 2012.

(ii) Camp Lejeune veterans who served at Camp Lejeune between August 1, 1953, and December 31, 1956, are not subject to copayment requirements for hospital care and medical services provided for a covered illness or condition on or after December 16, 2014.

(2) *Retroactive exemption.* VA will reimburse Camp Lejeune veterans for any copayments paid to VA for hospital care and medical services provided for a covered illness or condition if either of the following is true:

(i) For Camp Lejeune veterans who served at Camp Lejeune between January 1, 1957, and December 31, 1987, VA provided the hospital care or medical services to the Camp Lejeune veteran on or after August 6, 2012, and the veteran requested Camp Lejeune veteran status no later than September 24, 2016; or

(ii) For Camp Lejeune veterans who served at Camp Lejeune between August 1, 1953, and December 31, 1956, VA provided the hospital care or medical services to the Camp Lejeune veteran on or after December 16, 2014, and the veteran requested Camp Lejeune veteran status no later than July 18, 2018.

(The Office of Management and Budget has approved the information collection requirement in this section under control number 2900-0091.) (Authority: 38 U.S.C. 1710)

[79 FR 57414, Sep. 24, 2014; as amended at 81 FR 46605, July 18, 2016]

**Supplement *Highlights* references:** 86(2), 101(2).

**§ 17.410 Hospital care and medical services for Camp Lejeune family members.**

(a) *General.* In accordance with this section and subject to the availability of funds appropriated for such purpose, VA will provide payment or reimbursement for certain hospital care and medical services furnished to Camp Lejeune family members by non-VA health care providers.

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

*Camp Lejeune* has the meaning set forth in § 17.400(b).

*Camp Lejeune family member* means an individual who:

(i) Resided at Camp Lejeune (or was in utero while his or her mother either resided at Camp Lejeune or served at Camp Lejeune under § 17.400(b)) for at least 30 (consecutive or nonconsecutive) days during the period beginning on January 1, 1957, and ending on December 31, 1987; and

(ii) Meets one of the following criteria:

(A) Is related to a Camp Lejeune veteran by birth;

(B) Was married to a Camp Lejeune veteran; or

(C) Was a legal dependent of a Camp Lejeune veteran.

*Camp Lejeune veteran* has the meaning set forth in § 17.400(b).

*Health-plan contract* has the meaning set forth in § 17.1001(a).

*Third party* has the meaning set forth in § 17.1001(b).

(c) *Application.* An individual may apply for benefits under this section by completing and submitting an application form.

(d) *Payment or reimbursement of certain medical care and hospital services.* VA will provide payment or reimbursement for hospital care and medical services provided to a Camp Lejeune family member by a non-VA provider if all of the following are true:

(1) The Camp Lejeune family member or provider of care or services has submitted a timely claim for payment or reimbursement, which means:

(i) For hospital care and medical services provided before the date that the application discussed in paragraph (c) of this section was received by VA, the hospital care and medical services must have been provided no more than 2 years prior to the date that VA receives the application but not prior to March 26, 2013, and the claim for payment or reimbursement must be received by VA no more than 60 days after VA approves the application;

(ii) For hospital care and medical services provided on or after the date that the application discussed in paragraph (c) of this section was received by VA, the claim for