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Medical

Book I

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

Supplement No. 105

Covering period of *Federal Register* issues
through March 1, 2017

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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, 58–64, 70, 71, and 200

Medical

Supplement No. 105

5 March 2017

Covering the period of Federal Register issues
through March 1, 2017

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new regulations), and occasionally old pages will be removed without addition of any new material (reflecting rescinded regulations)—in these cases the word *None* will appear in the appropriate column.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. 105
March 5, 2017**

<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**

17.370-1 to 17.380-1	17.370-1 to 17.380-1	§17.380
17.410-2 to 17.412-1	17.410-2 to 17.412-1	§17.412

**Be sure to complete the
Supplement Filing Record (page I-9)
when you have finished filing this material.**

HIGHLIGHTS

Book I, Supplement No. 105 March 5, 2017

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 21 February 2017, the VA published an interim final rule; correcting amendment, effective that same day, to correct errors to a rule published on January 19, 2017 regarding in vitro fertilization, and does not make any substantive change to the content of the interim final rule.
Changes:

- In §17.380, revised paragraph (b), changing 2017 to 2018,
- In §17.412, revised paragraph (b), changing 2017 to 2018.

⌘

§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 §17.380

§ 17.380 In vitro fertilization treatment.

- (a) (1) In vitro fertilization may be provided when clinically appropriate to--
- (i) A veteran who has a service-connected disability that results in the inability of the veteran to procreate without the use of fertility treatment; and,
 - (ii) The spouse of such veteran, as provided in §17.412.
- (2) For the purposes of this section, “a service-connected disability that results in the inability of the veteran to procreate without the use of fertility treatment” means, for a male veteran, a service-connected injury or illness that prevents the successful delivery of sperm to an egg; and, for a female veteran with ovarian function and a patent uterine cavity, a service-connected injury or illness that prevents the egg from being successfully fertilized by sperm.
- (3) In vitro fertilization treatment will be provided under this section when clinically appropriate and to the same extent such treatment is provided to a member of the Armed Forces who incurs a serious injury or illness on active duty pursuant to 10 U.S.C. 1074(c)(4)(A), as described in the April 3, 2012, memorandum issued by the Assistant Secretary of Defense for Health Affairs on the subject of “Policy for Assisted Reproductive Services for the Benefit of Seriously or Severely Ill/Injured (Category II or III) Active Duty Service Members,” and the guidance issued by the Department of Defense to implement such policy, including any limitations on the amount of such benefits available to such a member.
- (b) Authority to provide in vitro fertilization treatment to covered veterans under this section expires September 30, 2018.

[82 FR 6275, Jan. 19, 2017; as amended at 82 FR 11153, Feb. 21, 2017]

Supplement *Highlights* references: 104(3), 105(1).

payment or reimbursement must be received by VA no more than 2 years after the later of either the date of discharge from a hospital or the date that medical services were rendered;

(2) The Camp Lejeune family member's treating physician certifies that the claimed hospital care or medical services were provided for an illness or condition listed in § 17.400(d)(1), and provides information about any co-morbidities, risk factors, or other exposures that may have contributed to the illness or condition;

(3) VA makes the clinical finding, under VA clinical practice guidelines, that the illness or condition did not result from a cause other than the residence of the family member at Camp Lejeune;

(4) VA would be authorized to provide the claimed hospital care or medical services to a veteran under VA's medical benefits package in § 17.38;

(5) The Camp Lejeune family member or hospital care or medical service provider has exhausted without success all claims and remedies reasonably available to the family member or provider against a third party, including health-plan contracts; and

(6) Funds were appropriated to implement 38 U.S.C. 1787 in a sufficient amount to permit payment or reimbursement.

(e) *Payment or reimbursement amounts.* Payments or reimbursements under this section will be in amounts determined in accordance with this paragraph (e).

(1) If a third party is partially liable for the claimed hospital care or medical services, then VA will pay or reimburse the lesser of the amount for which the Camp Lejeune family member remains personally liable or the amount for which VA would pay for such care under §§ 17.55 and 17.56.

(2) If VA is the sole payer for hospital care and medical services, then VA will pay or reimburse in accordance with §§ 17.55 and 17.56, as applicable. (Authority: 38 U.S.C. 1787)

[79 FR 57414, Sep. 24, 2014]

Supplement *Highlights* reference: 86(3).

§ 17.412 Fertility counseling and treatment for certain spouses.

(a) (1) VA may provide fertility counseling and treatment to a spouse of a veteran described in §17.380 to the extent such services are available to a veteran under §17.38, and consistent with the benefits relating to reproductive assistance provided to a member of the Armed Forces who incurs a serious injury or illness on active duty pursuant to 10 U.S.C. 1074(c)(4)(A), as described in the April 3, 2012, memorandum issued by the Assistant Secretary of Defense for Health Affairs on the subject of “Policy for Assisted Reproductive Services for the Benefit of Seriously or Severely Ill/Injured (Category II or III) Active Duty Service Members,” and the guidance issued by the Department of Defense to implement such policy, including any limitations on the amount of such benefits available to such a member.

(2) VA may provide in vitro fertilization to a spouse of a veteran described in §17.380 when clinically appropriate and consistent with the benefits relating to reproductive assistance provided to a member of the Armed Forces who incurs a serious injury or illness on active duty pursuant to 10 U.S.C. 1074(c)(4)(A), as described in the April 3, 2012, memorandum issued by the Assistant Secretary of Defense for Health Affairs on the subject of “Policy for Assisted Reproductive Services for the Benefit of Seriously or Severely Ill/Injured (Category II or III) Active Duty Service Members,” and the guidance issued by the Department of Defense to implement such policy, including any limitations on the amount of such benefits available to such a member.

(b) Authority to provide fertility counseling and treatment, including in vitro fertilization under this section, expires September 30, 2018.

[82 FR 6275, Jan. 19, 2017, as amended at 82 FR 11153, Feb. 21, 2017]

Supplement *Highlights* references: 104(3), 105(1).