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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,  
58–64, 70, 71, and 200

*Medical*

**Veterans Benefits Administration**

Supplement No. 85

Covering period of *Federal Register* issues  
through July 1, 2014

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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*

## Veterans Benefits Administration

Supplement No. 85

5 July 2014

Covering the period of Federal Register issues  
through July 1, 2014

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. 85  
July 5, 2014**

<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**

17.36-5 to 17.36-8

17.36-5 to 17.36-8

§17.36

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## HIGHLIGHTS

### Book I, Supplement No. 85 July 5, 2014

**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 3 December 2013, the VA published a final rule effective 1 July 2014, amending its regulation concerning the manner in which VA determines that a veteran is catastrophically disabled for purposes of enrollment in priority group 4 for VA health care. As amended by this rulemaking, the regulation articulates the clinical criteria that identify an individual as catastrophically disabled, instead of using the corresponding International Classification of Diseases, Ninth Revision, Clinical Modification (ICD-9-CM) and Current Procedural Terminology (CPT[supreg]) codes. The revisions ensure that the regulation is not out of date when new versions of those codes are published. The revisions also broaden some of the descriptions for a finding of catastrophic disability. Additionally, the final rule does not rely on the Folstein Mini Mental State Examination (MMSE) as a criterion for determining whether a veteran meets the definition of catastrophically disabled, because we have determined that the MMSE is no longer a necessary clinical assessment tool. Changes:

- In §17.36, revised paragraph (e)(1) and removed paragraph (e)(2)(ii).

(v) Veterans will be disenrolled, and reenrolled, in the order of the priority categories listed with veterans in priority category 1 being the last to be disenrolled and the first to be reenrolled. Similarly, within priority categories 7 and 8, veterans will be disenrolled, and reenrolled, in the order of the priority subcategories listed with veterans in subcategory (i) being the last to be disenrolled and first to be reenrolled.

(4) [Reserved]

(5) *Disenrollment.* A veteran enrolled in the VA health care system under paragraph (d)(2) of this section will be disenrolled only if:

(i) The veteran submits to a VA Medical Center or to the VA Health Eligibility Center, 2957 Clairmont Road, NE., Suite 200, Atlanta, Georgia 30329-1647, a signed and dated document stating that the veteran no longer wishes to be enrolled; or

(ii) A VA network or facility director, or the Deputy Under Secretary for Health for Operations and Management or Chief, Health Administration Service or equivalent official at a VA medical facility, or Director, Health Eligibility Center, determines that the veteran is no longer in a priority category eligible to be enrolled, as set forth in §17.36(c)(2).

(6) *Notification of enrollment status.* Notice of a decision by a VA network or facility director, or the Deputy Under Secretary for Health for Operations and Management or Chief, Health Administration Service or equivalent official at a VA medical facility, or Director, Health Eligibility Center, regarding enrollment status will be provided to the affected veteran by letter and will contain the reasons for the decision. The letter will include an effective date for any changes and a statement regarding appeal rights. The decision will be based on all information available to the decisionmaker, including the information contained in VA Form 10-10EZ.

(e) *Catastrophically disabled.* For purposes of this section, catastrophically disabled means to have a permanent severely disabling injury, disorder, or disease that compromises the ability to carry out the activities of daily living to such a degree that the individual requires personal or mechanical assistance to leave home or bed or requires constant supervision to avoid physical harm to self or others. This definition is met if an individual has been found by the Chief of Staff (or equivalent clinical official) at the VA facility where the individual was examined to have a permanent condition specified in paragraph (e)(1) of this section; to meet permanently one of the conditions specified in paragraph (e)(2) of this section by a clinical evaluation of the patient's medical records that documents that the patient previously met the permanent criteria and continues to meet such criteria (permanently) or would continue to meet such criteria (permanently) without the continuation of on-going treatment; or to meet permanently one of the conditions specified in paragraph (e)(2) of this section by a current medical examination that documents that the patient meets the permanent criteria and will continue to meet such criteria (permanently) or would continue to meet such criteria (permanently) without the continuation of on-going treatment.

(1) Quadriplegia and quadriparesis; paraplegia; legal blindness defined as visual impairment of 20/200 or less visual acuity in the better seeing eye with corrective lenses, or a visual field restriction of 20 degrees or less in the better seeing eye with corrective lenses; persistent vegetative state; or a condition resulting from two of the following procedures, provided the two procedures were not on the same limb:

- (i) Amputation, detachment, or reamputation of or through the hand;
- (ii) Disarticulation, detachment, or reamputation of or through the wrist;
- (iii) Amputation, detachment, or reamputation of the forearm at or through the radius and ulna;
- (iv) Amputation, detachment, or disarticulation of the forearm at or through the elbow;
- (v) Amputation, detachment, or reamputation of the arm at or through the humerus;
- (vi) Disarticulation or detachment of the arm at or through the shoulder;
- (vii) Interthoracoscaphular (forequarter) amputation or detachment;
- (viii) Amputation, detachment, or reamputation of the leg at or through the tibia and fibula;
- (ix) Amputation or detachment of or through the great toe;
- (x) Amputation or detachment of or through the foot;
- (xi) Disarticulation or detachment of the foot at or through the ankle;
- (xii) Amputation or detachment of the foot at or through malleoli of the tibia and fibula;
- (xiii) Amputation or detachment of the lower leg at or through the knee;
- (xiv) Amputation, detachment, or reamputation of the leg at or through the femur;
- (xv) Disarticulation or detachment of the leg at or through the hip; and
- (xvi) Interpelviaabdominal (hindquarter) amputation or detachment.

(2) (i) Dependent in 3 or more Activities of Daily Living (eating, dressing, bathing, toileting, transferring, incontinence of bowel and/or bladder), with at least 3 of the dependencies being permanent with a rating of 1, using the Katz scale.

(ii) A score of 2 or lower on at least 4 of the 13 motor items using the Functional Independence Measure.

(iii) A score of 30 or lower using the Global Assessment of Functioning.

(f) *VA Form 10-10EZ*. Copies of VA Form 10-10EZ are available at any VA medical center and at <https://www.1010ez.med.va.gov/sec/vha/1010ez/>.

(Authority: 38 U.S.C. 101, 501, 1521, 1701, 1705, 1710, 1722)

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900-0091.)

[64 FR 54212, Oct. 6, 1999, as amended at 67 FR 35039, May 17, 2002; 67 FR 62887, Oct. 9, 2002; 68 FR 2672, Jan. 17, 2003; 74 FR 22834, May 15, 2009; 74 FR 48012, Sept. 21, 2009; 75 FR 52628, Aug. 27, 2010; 76 FR 52274, Aug. 22, 2011; 78 FR 72578, Dec. 3, 2013]

**Supplement *Highlights* references:** 37(1). Book I, 9(1), 12(1), 13(2), 47(2), 51(1), 56(1), 64(1), 85(1).

Reserved