INFORMATION CONTACT section of this document.

LaNita VanDyke,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. E8–25638 Filed 10–27–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 54

[REG–120476–07]

RIN 1545–BG71

Employer Comparable Contributions to Health Savings Accounts Under Section 4980G, and Requirement of Return for Filing of the Excise Tax Under Section 4980B, 4980D, 4980E or 4980G; Hearing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of public hearing on proposed rulemaking.

SUMMARY: This document cancels a public hearing on proposed rulemaking providing guidance on employer comparable contributions to Health Savings Accounts (HSAs) under section 4980G of the Internal Revenue Code as mended by sections 302, 305, and 306 of the Tax Relief and Health Care Act of 2006. The proposed regulations also provide guidance relating to the requirement of a return to accompany payment of the excise tax under section 4980B, 4980D, 4980E or 4980G of the Code and the time for filing that return. These proposed regulations would affect employers that contribute to employees' HSAs and Archer MSAs, employers or employee organizations that sponsor a group health plan, and certain third parties such as insurance companies or HMOs or third-party administrators who are responsible for providing benefits under the plan.

DATES: The public hearing, originally scheduled for October 30, 2008, at 10 a.m., is cancelled.

FOR FURTHER INFORMATION CONTACT: Richard A. Hurst of the Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration), at *Richard.A.Hurst@irscounsel.treas.gov*.

SUPPLEMENTARY INFORMATION: A notice of public hearing that appeared in the **Federal Register** on Wednesday, July 16, 2008 (73 FR 40793), announced that a public hearing was scheduled for October 30, 2008, at 10 a.m., in room 2116, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The subjects of the public hearing are under sections 4980B, 4980D, 4980E and 4980G of the Internal Revenue Code.

The public comment period for these regulations expired on October 14, 2008. Outlines of topics to be discussed at the hearing were due on October 13, 2008. The notice of proposed rulemaking and notice of public hearing instructed those interested in testifying at the public hearing to submit an outline of the topics to be addressed. As of Wednesday, October 15, 2008, no one has requested to speak. Therefore, the public hearing scheduled for October 30, 2008, is cancelled.

LaNita Van Dyke,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. E8–25635 Filed 10–27–08; 8:45 am]

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AM99

Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA): Preauthorization for Durable Medical Equipment

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Department of Veterans Affairs (VA) regulations for the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA) related to preauthorization requirements that apply to the purchase or rental of durable medical equipment. It would increase from $300 to $2,000 the cost of purchase or rental above which preauthorization would be required. This is intended to remove from the CHAMPVA claims process an administratively inefficient requirement.

DATES: Comments must be received on or before December 29, 2008.

ADDRESSES: Written comments may be submitted through *http://www.Regulations.gov*; by mail or hand-delivery to the Director, Regulations Management (02REG1), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to ''RIN 2900–AM99—CHAMPVA: Preauthorization for DME.'' Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Richard M. Trabert, Policy Management Division, VA Health Administration Center, 3773 Cherry Creek Drive North, Denver, CO 80246–9061; (303) 331–7549. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: This document proposes to amend VA's medical regulations in 38 CFR part 17 concerning CHAMPVA. CHAMPVA is a VA medical benefits program for (1) spouses and children of veterans who have a permanent and total service-connected disability and (2) surviving spouses and children of veterans who died as a result of a service-connected disability or while rated permanently and totally disabled from a service-connected disability, or who died in the active military, naval, or air service in the line of duty. CHAMPVA is authorized at 38 U.S.C. 1781. To be eligible for CHAMPVA benefits, among other requirements, the spouses, surviving spouses, and children may not be otherwise eligible for medical care under 10 U.S.C. chapter 55 (authorizing TRICARE, medical care that is furnished to certain dependents and survivors of active duty and retired members of the Armed Forces). Needed medical care is largely provided to CHAMPVA beneficiaries through non-VA providers.

Durable medical equipment (DME) is included among the health care items that are available to CHAMPVA beneficiaries, provided the DME is medically necessary and appropriate for the care of the CHAMPVA beneficiary's condition. The determination of medical necessity and appropriateness is made by appropriate VA officials. For purposes of this regulation, DME is generally equipment or supply that: (1) Can withstand repeated use; (2) is primarily and customarily to serve a medical purpose; (3) is medically necessary for the treatment of a covered illness or injury; and (4) is not otherwise excluded by regulation from CHAMPVA coverage.

To ensure that DME purchases and rental are medically necessary and

appropriate as well as within the Department's budgetary constraints, VA has required non-VA providers to obtain preauthorization before the purchase or rental of DME for a CHAMPVA beneficiary when the cost of the DME exceeds $300.

We propose to amend § 17.273(e) by increasing the dollar amount above which preauthorization will be required for purchase or rental of DME. The proposed rule would increase the dollar amount above which preauthorization would be required from $300 to $2,000.

This increase in the dollar amount above which preauthorization is required is necessary to remove an administrative inefficiency in the CHAMPVA claims process. Since the $300 ceiling was put into place in 1973, the cost of common DME items has steadily increased. We conducted a review of a sample of our claims that demonstrated we had approved 98 percent of all requests for DME, but only 93 percent of requests for DME having a purchase or total rental price of over $2,000. When DME claims are disapproved, it is generally because the DME is determined by VA not to be medically necessary and appropriate. We concluded that it is not cost effective to review claims of $2,000 or less for medical necessity twice, i.e., to review a request when submitted for preauthorization and again when the claim is officially submitted for payment.

Raising the dollar amount to $2,000 would make the administrative processing of DME claims easier for CHAMPVA beneficiaries and providers, as well as for VA. We expect that it would not affect the number of claims that are approved. As noted, 98 percent of these claims are currently already approved for payment.

Regulatory Flexibility Act

The Secretary of Veterans Affairs hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Individuals eligible for CHAMPVA benefits are widely dispersed geographically and thus services provided to them would not have a significant impact on any small entity. Therefore, pursuant to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analyses requirements of section 603 and 604.

Paperwork Reduction Act of 1995

This document contains no provisions constituting a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any given year. This proposed rule would have no such effect on State, local, or tribal governments, or on the private sector.

Executive Order 12866

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Executive Order classifies a regulatory action as a ''significant regulatory action'' requiring review by the Office of Management and Budget (OMB) unless OMB waives such review, if it is a regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal government or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this proposed rule have been examined and it has been determined not to be a significant regulatory action under Executive Order 12866.

Catalog of Federal Domestic Assistance

This proposed rule affects the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA), for which there is no Catalog of Federal Domestic Assistance program number.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs—Health, Health facilities, Health professionals, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Travel and transportation expenses, and Veterans.

Approved: August 19, 2008.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

For the reasons stated above, the Department of Veterans Affairs proposes to amend 38 CFR part 17 as follows:

PART 17—MEDICAL

1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, 1721, and as noted in specific sections.

§ 17.273 [Amended]

2. Amend § 17.273(e) by removing ''$300.00'' and adding, in its place, ''$2,000.00''.

[FR Doc. E8–25646 Filed 10–27–08; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2008–0694; FRL–8735–9]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of West Virginia. This revision pertains to establishing ambient air quality standards for sulfur oxides, particulate matter, carbon monoxide, ozone, nitrogen dioxide, and lead equivalent to the national primary and secondary ambient air quality standards. This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before November 28, 2008.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–