

June 11, 2009

## RELAXATION OF PRIORITY GROUP 8 ENROLLMENT RESTRICTIONS

**1. PURPOSE:** This Veterans Health Administration (VHA) Directive provides policy on relaxation of the Department of Veterans Affairs' (VA) enrollment restriction for certain Priority Group 8 Veterans whose income exceeds the current means test (MT) and geographic means test (GMT) income thresholds by 10 percent or less.

### 2. BACKGROUND

a. On January 17, 2003, VA published in the Federal Register an interim final rule that amended Title 38 Code of Federal Regulations (CFR) 17.36 to add two new subpriorities to enrollment Priority Groups 7 and 8, for a total of four subcategories in each group. It also announced that beginning January 17, 2003, VA would enroll all priority categories of Veterans, except for those Veterans in Priority Group 8 who were not in an enrolled status as of January 17, 2003, or who requested disenrollment on, or after, that date. The Veterans in this Priority Group are those whose incomes exceed the applicable VA income threshold limits and who do not otherwise qualify for enrollment in another Priority Group.

b. In a proposed rule published in the Federal Register on January 21, 2009, VA proposed amendments to 38 CFR 17.36 that would establish additional subpriorities 8(ii) and 8(iv) for Veterans whose income exceeds the current MT and GMT income thresholds by 10 percent or less and authorizing enrollment of Veterans who qualify under this new rule. In a final rule published in the Federal Register on May 15, 2009, VA adopted these proposed amendments with an effective date of June 15, 2009.

c. Priority Group 8 Veterans are those not included in Priority Group 4 or 7, who are eligible for care only if they agree to pay to the United States the applicable co-payment determined under Title 38 United States Code (U.S.C.) 1710(f) and 1710(g). For VHA purposes, this Priority Group is further prioritized into the following subpriorities:

(1) **Subpriority a:** Noncompensable zero percent service-connected Veterans who were in an enrolled status on January 17, 2003, or who are moved from a higher Priority Group or subpriority due to no longer being eligible for inclusion in such Priority Group or subpriority and who subsequently do not request disenrollment.

(2) **Subpriority b.** Noncompensable zero percent service-connected Veterans not included in subpriority a and applying for enrollment on or after June 15, 2009, whose income is not greater than 10 percent more than the income that would permit their enrollment in Priority Group 5 or 7, whichever is higher.

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(3) **Subpriority c.** Nonservice-connected Veterans who were in an enrolled status on January 17, 2003, or who are moved from a higher Priority Group or subpriority due to no longer being eligible for inclusion in such Priority Group or subpriority and who subsequently do not request disenrollment.

(4) **Subpriority d.** Nonservice-connected Veterans not included in subpriority c and applying for enrollment on or after June 15, 2009, whose income is not greater than 10 percent more than the income that would permit their enrollment in Priority Group 5 or 7, whichever is higher.

(5) **Subpriority e.** Noncompensable zero percent service-connected Veterans who are not included in subpriority a or b.

(6) **Subpriority g.** Nonservice-connected Veterans who are not included in subpriority c or d.

**3. POLICY:** It is VHA policy to enroll all eligible Veterans who apply for enrollment in VA's Health Care System.

### 4. ACTION

a. **Facility Director.** Each Facility Director is responsible for:

(1) Ensuring the initial VA Form 10-10EZ, Application for Health Benefits, is processed as soon as administratively feasible, but no later than 7 calendar days after receipt of the application.

(2) Ensuring the management of patient administration (e.g., scheduling, primary care team or provider assignment, consult management, maintenance of Electronic Wait List) activities in a timely and standardized manner in accordance with current VHA policy.

(3) Ensuring Veterans are informed, as appropriate, of VA's Hardship and Catastrophically Disability (CD) processes to ensure Veterans are afforded all due considerations that may impact their enrollment Priority Group placement.

(4) Ensuring that Veterans are informed that their self-reported income and assets information may be subject to verification by matching data from the Internal Revenue Service (IRS) and the Social Security Administration (SSA).

b. **Director, Health Eligibility Center (HEC).** The Director, HEC, or designated HEC staff, is the authoritative source for all eligibility and enrollment determinations, and is responsible for:

(1) Confirming a VA facility's initial enrollment placement of Veterans into subpriority groups 8b or 8d as previously defined. If the HEC determines the Veteran is eligible for enrollment into subpriority group 8b or 8d under the criteria in this Directive, the HEC will mail the Veteran written official enrollment notification.

(2) Confirming a VA facility's initial enrollment placement of a Veteran into subpriority group 8e or 8g as previously defined. If the HEC determines the Veteran is not eligible for enrollment under the criteria in this Directive, the HEC will mail the Veteran written official enrollment denial notification and appellate rights.

***NOTE:** Veterans who submitted an enrollment application between January 1 and June 14, 2009, but were declined enrollment due to income, will have their applications automatically reassessed to determine whether amended 38 CFR 17.36 (i.e., Subpriority b or d) will allow for their enrollment. The HEC will officially notify these Veterans the results of this reassessment.*

**5. REFERENCES**

- a. Public Law 110-329.
- b. Title 38 CFR Section 17.36.

**6. FOLLOW-UP RESPONSIBILITY:** The Chief Business Office (16) is responsible for the contents of this Directive. Questions should be referred to the Health Eligibility Center at (404) 828-5257.

**7. RESCISSIONS:** None. This VHA Directive expires June 30, 2014.

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