

permit the inclusion of “formerly” limited English proficient students in the limited English proficient (LEP) subgroup for the purpose of determining adequate yearly progress. The commenters feared that counting only “current” limited English proficient students would result in permanent identification for improvement of any school serving sufficient numbers of such students.

Discussion: The Secretary recognizes the concern raised by the commenter not to penalize schools and LEAs that succeed in developing the English proficiency of limited English proficient students. However, these provisions are statutory and may not be changed by the Secretary. Also, the definition of “limited English proficient” in section 9101 (25) of the ESEA includes three alternative definitions and may give States some flexibility to address this concern. The Secretary may further address this issue in Title I guidance.

Changes: None.

* * * * *

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: <http://www.ed.gov/legislation/FedRegister>.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1-888-293-6498; or in the Washington, DC, area at (202) 512-1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: <http://www.access.gpo.gov/nara/index.html>.

Dated: January 3, 2003.

Susan B. Neuman,

Assistant Secretary, Office of Elementary and Secondary Education.

[FR Doc. 03-351 Filed 1-7-03; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900-AK88

Health Care for Certain Children of Vietnam Veterans—Covered Birth Defects and Spina Bifida

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the regulations regarding health care for

Vietnam veterans' children suffering from spina bifida to also encompass health care for women Vietnam veterans' children with certain other birth defects. This is necessary to provide health care for such children in accordance with recently enacted legislation. The amendments also reduce the requirements for preauthorization, reflect changes in organizational and personnel titles, revise contact information for the VHA Health Administration Center, and make nonsubstantive changes for purposes of clarity.

DATES: *Effective Date:* January 8, 2003.

Applicability Dates: This rule is applicable retroactively to December 1, 2001, for benefits added by Public Law 106-419. For more information concerning the dates of applicability, see the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT:

Susan Schmetzer, Chief, Policy & Compliance Division, Health Administration Center, Department of Veterans Affairs, PO Box 65020, Denver, CO 80206, telephone (303) 331-7552.

SUPPLEMENTARY INFORMATION: In a document published in the **Federal Register** on January 2, 2002 (67 FR 209), we proposed to amend VA health care regulations to provide benefits for women Vietnam veterans' children with covered birth defects, reduce the requirements for preauthorization, reflect changes in organizational and personnel titles, revise contact information for the VHA Health Administration Center, and make nonsubstantive changes for purposes of clarity. Prior to the enactment of Public Law 106-419 on November 1, 2000, the provisions of 38 U.S.C. chapter 18 only concerned benefits for children with spina bifida who were born to Vietnam veterans. Effective December 1, 2001, section 401 of Public Law 106-419 amended 38 U.S.C. chapter 18 to add benefits for women Vietnam veterans' children with certain birth defects (referred to as “covered birth defects”).

Two companion proposed rule documents concerning the provision of benefits under that legislation were also set forth in the January 2, 2002, issue of the **Federal Register**. One concerned monetary allowances and the identification of covered birth defects (RIN: 2900-AK67) (67 FR 200). The other concerned the provision of vocational training benefits (RIN: 2900-AK90) (67 FR 215). With respect to the first document, we published a final rule entitled “Monetary Allowances for Certain Children of Vietnam Veterans; Identification of Covered Birth Defects”

in the July 31, 2002, issue of the **Federal Register** (67 FR 49585).

For the proposed rule on health care, we provided, except for the information collection provisions, a thirty-day period for public comments, which ended on February 1, 2002. Pursuant to the Paperwork Reduction Act, we provided for the information collections in the document a 60-day comment period, which ended on March 4, 2002. We received comments from one organization and two individuals. None of the comments concerned the information collections.

One commenter, an individual, felt that the U.S. government is displaying a bias in favor of women veterans in this regulation and that the hidden effect of Agent Orange may also have remained dormant in men's systems and produced chromosomal disorders in their children. No changes are made based on this comment. Public Law 106-419, which was based on a comprehensive health study conducted by VA of 8,280 women Vietnam-era veterans, provides benefits specifically for women Vietnam veterans' children with certain birth defects. We have no legal authority to award the new health care benefits to children of male Vietnam veterans.

Another individual commented about payment of transportation expenses for medical care and treatment, and suggested two changes to the regulations. First, he suggested a change that he said would clarify § 17.902(a), which in the first sentence requires preauthorization for certain travel and other benefits. In our view, his suggested change would not be merely a clarification but rather would be a substantive change to the benefits paid for travel of beneficiaries and any necessary attendants. The proposed rule contained the same language concerning travel as in the current regulations in 38 CFR part 17 for health care for Vietnam veterans' children with spina bifida. We believe that a substantive change to travel benefits is beyond the scope of this rulemaking.

Second, this commenter suggested that § 17.903, concerning payment, be amended to contain specific provisions about travel benefits. The commenter's suggested language would, in part, unnecessarily restate statutory provisions that are already reflected in the language in proposed § 17.900, which defines “health care” as including “direct transportation costs to and from approved health care providers (including any necessary costs for meals and lodging en route, and accompaniment by an attendant or attendants).” Also, his suggested language would add substantive