

DEPARTMENT OF VETERANS AFFAIRS**38 CFR Parts 17 and 61****RIN 2900-AL30****VA Homeless Providers Grant and Per Diem Program****AGENCY:** Department of Veterans Affairs.**ACTION:** Interim final rule.

SUMMARY: We are revising the regulations concerning the VA Homeless Providers Grant and Per Diem Program in large part to implement the provisions of the Homeless Veterans Comprehensive Assistance Act of 2001 (HVCAA).

We also are establishing provisions in the form of funding priorities to meet a statutory mandate. In addition, to help ensure that program objectives are met by those receiving assistance we are adding provisions to state that to receive assistance under the interim final rule, an entity must not be in default by failing to meet requirements under any previously awarded grant.

Further, we are making changes to provide that each resident of supportive housing may be required to pay rent in an amount determined by the recipient, except that such rent may not exceed 30 percent of the resident's monthly income not including amounts equal to medical expenses, child care expenses, or court ordered payments. This is intended to provide a system that is administratively feasible, that allows for significant help for covering operating expenses, and that would allow veterans to retain sufficient funds to help prepare for a successful transition to independent living.

DATES: Effective Date: This interim final rule is effective on March 19, 2003; except for 38 CFR 61.11, 61.14, 61.17, 61.31, 61.41 and, 61.51, which are effective April 3, 2003.

Comment Dates: Comments on the rule, including comments on the information collection provisions, must be received on or before May 19, 2003; except that comments on the request for emergency approval of the collection of information provisions must be received on or before April 3, 2003.

ADDRESSES: Mail or hand-deliver written comments to: Director, Office of Regulatory Law (02D), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1154, Washington, DC 20420; or fax comments to (202) 273-9289; or e-mail comments to OGCRegulations@mail.va.gov. Comments should indicate that they are submitted in response to "RIN 2900-

AL30." All comments received will be available for public inspection in the Office of Regulatory Law, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT:

Roger Casey, VA Homeless Providers Grant and Per Diem Program, Mental Health Strategic Health Care Group (116E), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420; (877) 332-0334. (This is a toll-free number.)

SUPPLEMENTARY INFORMATION: The regulations previously established for the VA Homeless Providers Grant and Per Diem Program (38 CFR 17.700 through 17.731) contained a mechanism for providing grants and per diem to public or nonprofit private entities to assist homeless veterans by helping to ensure the availability of supportive housing and service centers to furnish outreach, rehabilitative services, vocational counseling and training, and transitional housing. As discussed below, we are revising the regulations in this interim final rule to implement the provisions of Public Law 107-95, the Homeless Veterans Comprehensive Assistance Act of 2001.

Organization and Clarity

We are transferring the revised regulations to a new part 61 in 38 CFR and are making other changes to provide better organization and clarity.

Use of the Term "capital grants"

In the previous regulations the term "grant" concerned construction, renovation, and acquisition of facilities; and also concerned acquisition of vans. In the interim final rule, we have referred to this type of grant as a "capital grant" to distinguish it from the new "special needs grant" and the new "technical assistance grant," both discussed below.

Capital Grants to Expand Existing Structures

Public Law 106-117 added authority to allow VA to award capital grants to expand existing programs which was codified by the HVCCA at 38 U.S.C. 2011(a). We made changes to reflect this authority.

Recovery Provisions for Capital Grants

The provisions of 38 U.S.C. 2011 authorize recovery of capital grant funds if not used for the intended purpose within 3 years after the grant was awarded. The interim final rule provides that if, after 3 years from the date of award of a capital grant, the

grant recipient does not establish the project for which the grant was made or has withdrawn from the VA Homeless Providers Grant and Per Diem Program, the United States would be entitled to recover from the grant recipient all of the grant amounts provided for the project. If thereafter, but prior to the period of time specified in the following chart, the capital grant recipient ceases to provide the services for which the grant was made or withdraws from the VA Homeless Providers Grant and Per Diem Program, the rule provides that the United States would be entitled to recover grant amounts from the grant recipient on a prorated basis. The amount to be recaptured equals the amount of the grant, multiplied by the fraction resulting from using the number of years the recipient was not operational as the numerator, and using the number of years of operation required under the following chart as the denominator.

Grant amount (dollars in thousands)	Years of operation
0-250	7
251-500	8
501-750	9
751-1,000	10
1,001-1,250	11
1,251-1,500	12
1,501-1,750	13
1,751-2,000	14
2,001-2,250	15
2,251-2,500	16
2,501-2,750	17
2,751-3,000	18
Over-3,000	20

Example A: Grantee A is awarded a grant and does not bring the project to operational status within 3 years from the time of award. Grantee A may be subject to full recapture of the grant award.

Example B: Grantee B is awarded a grant in the amount of \$300,000 and brings the project to operational status within 3 years from the time of award. Grantee B then provides services to homeless veterans for a period of 6 years from the date the program was operationalized, but now decides to close the program. As the original award was \$300,000 and as a condition of receiving the grant funds Grantee B agreed to provide services for 8 years. Therefore, Grantee B would be subject to the prorated recapture of the grant award for the 2-year period not served or in this case $\frac{1}{4}$ of the original grant would be subject to recapture.

Example C: Grantee C is awarded a grant in the amount of \$400,000, becomes operational within 1 year of the date of the grant award and ceases operation 1 year later, 2 years after the date of the grant award. After the expiration of the 3-year period beginning on the date of the grant award, Grantee C would be subject to prorated recapture for the 7 years it did not provide service of the required 8 years of operation. The amount