

payment of Montgomery GI Bill benefits as stated in the **SUMMARY** portion of this document.

Interested persons were given 60 days to submit comments on the proposed rule and the proposed information collections. VA received one comment concerning the proposed rule. The comment came from a director of a company that has a financial interest in a construction trade school. He requested that VA include "Construction Trades" or "Construction Crafts" in the list of industries an individual must intend to seek employment in to qualify for the accelerated payment provisions. The Veterans Education and Benefits Expansion Act of 2001 (Public Law 107-103) allows an accelerated payment only for courses leading to employment in a "high technology" industry. Although the construction trade does offer jobs in technical fields, the construction trade industry did not appear as a "high technology" industry in the data we reviewed. The

SUPPLEMENTARY INFORMATION section of the proposed rule shows the data we used in arriving at the list of "high technology" industries. Because the law specifically states the training must lead to employment in a "high technology" industry, VA cannot offer accelerated payment for courses leading to employment in other industries. Thus, we did not amend the proposed rule based on the comment received.

Based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposed rule as a final rule, except as stated below.

We amended proposed § 21.7151(c) to include information inadvertently omitted. The amendment, located at § 21.7151(c)(1)(vi), applies when an individual who received an accelerated payment applies for a subsequent accelerated payment. This amendment states that an individual must make all certifications required in § 21.7154(d) for any previous accelerated payment before we make a subsequent accelerated payment. The purpose of this amendment is to ensure proper payment of benefits by avoiding overpayments. Generally, Montgomery GI Bill payments are paid at the end of each month after students certify their attendance for that month. However, under the accelerated payment provisions individuals can receive the payment at the start of a course but their certification is not required until the end of the course. An individual could receive a payment of \$6,000 at the start of the course. After receiving payment he or she might drop out of the course

and therefore may not be entitled to the full \$6,000 payment. The certification shows whether the individual completed the course or not. If he or she dropped the course, the certification will show the date last attended. VA uses the certification information to recalculate the payment and determine if an overpayment of benefits occurred. Before we release another accelerated payment, we must be certain that an overpayment has not occurred. If an overpayment has occurred, we would notify the individual of the amount owed VA and, if necessary reduce the subsequent accelerated payment by that amount.

Additionally, paragraph (b) of § 21.7140 has been changed to correct typographical errors that were published in the proposed rule on September 11, 2002, at 67 FR 57543. The first error was an incorrect cite to § 21.7151(d), which does not exist. The second error was an incorrect cite to § 21.7154(c), which should have read § 21.7154(d). This document corrects those errors.

Paperwork Reduction Act

The final rule contains new reporting requirements. We described the new reporting requirements in the preamble of the proposed rule and provided a comment period. We did not receive any comments concerning the new reporting requirements. The Office of Management and Budget assigned control number 2900-0636 to the new reporting requirements.

Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private section, of \$100 million or more in any given year. This final rule has no consequential effect on State, local, or tribal governments.

Executive Order 12866

This document has been reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

The Secretary of Veterans Affairs hereby certifies that this final rule 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. This final rule affects only individuals and will not directly affect small entities. Pursuant to 5 U.S.C. 605(b), this rule,

therefore, is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance Program Numbers

The Catalog of Federal Domestic Assistance numbers for the programs affected by this proposed rule are 64.117, 64.120, and 64.124.

List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflicts of interests, Defense Department, Education, Employment, Grant programs-education, Grant programs-veterans, Health care, Loan programs-education, Loan programs-veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: March 12, 2003.

Anthony J. Principi,

Secretary of Veterans Affairs.

■ For the reasons set out in the preamble, 38 CFR part 21 (subparts D and K) is amended to read as follows:

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart D—Administration of Educational Assistance Programs

■ 1. The authority citation for part 21, subpart D continues to read as follows:

Authority: 10 U.S.C. 2141 note, ch.1606; 38 U.S.C. 501(a), chs. 30, 32, 34, 35, 36, unless otherwise noted.

■ 2. Section 21.4138 is amended by:

- a. In paragraph (f)(1)(v), removing "basis; or" and adding, in its place, "basis;"
- b. In paragraph (f)(1)(vi), removing "basis." and adding, in its place, "basis; or"
- c. Adding paragraph (f)(1)(vii).

The addition reads as follows:

§ 21.4138 Certifications and release of payments.

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(f) * * *

(1) * * *

(vii) The veteran receives an accelerated payment for the term, quarter, semester, or summer session preceding the interval.

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■ 3. Section 21.4200 is amended by:

- a. In paragraph (a)(4), removing "section; or", and adding, in its place, "section;"