

warrant the preparation of a Federalism Assessment. Title VIII of ANILCA precludes the State from exercising subsistence management authority over fish and wildlife resources on Federal lands.

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects. The Bureau of Indian Affairs is a participating agency in this rulemaking.

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, or use. This Executive Order requires agencies to prepare Statements of Energy Effects when undertaking certain actions. As these actions are not expected to significantly affect energy supply, distribution, or use, they are not significant energy actions and no Statement of Energy Effects is required.

#### *Drafting Information*

William Knauer drafted this document under the guidance of Thomas H. Boyd, of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Taylor Brelsford, Alaska State Office, Bureau of Land Management; Greg Bos, Alaska Regional Office, U.S. Fish and Wildlife Service; Sandy Rabinowitch, Alaska Regional Office, National Park Service; Warren Eastland, Alaska Regional Office, Bureau of Indian Affairs; and Steve Kessler, USDA-Forest Service, provided additional guidance.

**Authority:** 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

Dated: December 3, 2003.

**Thomas H. Boyd,**

*Acting Chair, Federal Subsistence Board.*

Dated: December 3, 2003.

**Steve Kessler,**

*Subsistence Program Leader, USDA-Forest Service.*

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## **DEPARTMENT OF VETERANS AFFAIRS**

### **38 CFR Part 17**

**RIN 2900–AL06**

#### **Reasonable Charges for Medical Care or Services; 2003 Methodology Changes**

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** This document amends the Department of Veterans Affairs (VA) medical regulations concerning "reasonable charges" for medical care or services provided or furnished by VA to a veteran:

- For a nonservice-connected disability for which the veteran is entitled to care (or the payment of expenses of care) under a health plan contract;
- For a nonservice-connected disability incurred incident to the veteran's employment and covered under a worker's compensation law or plan that provides reimbursement or indemnification for such care and services; or
- For a nonservice-connected disability incurred as a result of a motor vehicle accident in a State that requires automobile accident reparations insurance.

The regulations contain methodologies designed to establish VA charges that replicate, insofar as possible, the 80th percentile of community charges, adjusted to the market areas in which VA facilities are located, and trended forward to the time period during which the charges will be used. This document amends the regulations regarding VA's reasonable charges methodologies for the following purposes: To establish charges for medical care, procedures, services, durable medical equipment (DME), drugs, injectables, medical items, and supplies for which we previously did not have charges; to replace certain charges previously based on VA costs with charges based on community charges; to establish separate charges for medical care, procedures, services, DME, drugs, injectables, medical items, and supplies whose charges were previously combined with other charges; to bring our charge structures and associated billing practices closer to industry standard charge structures and billing practices; and to provide certain clarifications.

**DATES:** This final rule is effective December 19, 2003.

**FOR FURTHER INFORMATION CONTACT:** Stephanie Mardon, Chief Business

Office (168), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 254–0362. (This is not a toll free number.)

**SUPPLEMENTARY INFORMATION:** In a proposed rule published in the **Federal Register** on October 2, 2003 (68 FR 56876), we proposed to amend VA's medical regulations as summarized in this document and discussed in full in the proposed rule. We provided a comment period that ended on November 3, 2003. We received one comment to the proposed rule, which we are now adopting as a final rule with minor revisions based on the public comment, plus clarifications and minor technical changes.

The comment focused on the use of the term "medically directed" as it applies to VA charges for anesthesia services. The commenter pointed out that under the Medicare program, the term "medically directed" has specific meaning having to do with Medicare payments to anesthesiologists for providing certain services. The commenter also pointed out that Medicare does not require that Certified Registered Nurse Anesthetists (CRNAs) be medically directed by anesthesiologists while providing anesthesia services. The commenter stated that Medicare and other primary insurers recognize the terms "personally performed" and "non-medically directed," and recommended that these terms be used in the VA regulation. We appreciate this information, and we have revised paragraph (g) of the regulation to incorporate the recommended language.

The commenter also recommended that VA establish an "Anesthesia Reimbursement Working Group" to advise VA regarding methodology for determining professional charges and values for anesthesia services. Our response to this recommendation is that we believe our current methodology for determining professional charges and values for anesthesia services is appropriate, and that establishing the indicated working group is not necessary at this time.

In the proposed rule, we identified the Internet site of the Veterans Health Administration Chief Business Office as <http://www.va.gov/revenue>. In connection with ongoing improvements to this Internet site, the address has been changed to <http://www.va.gov/cbo>. We have made this change in the two places in the regulation in which it occurs, in paragraphs (a)(2) and (a)(3), indicating that this is the current address of this Internet site.