

needed to facilitate access to office space.

Section 14.628 Recognition of Organizations

One commenter recommended clarification of the term “region” in proposed § 14.628(a)(2)(v), for purposes of determining whether an organization is sufficiently diversified geographically to qualify as a national organization. To clarify this provision and to provide objective standards, we changed the “Geographic diversification” requirement to require either one or more posts, chapters, or offices in at least ten states, or one or more members in at least twenty states.

Three commenters expressed concerns regarding the phrase “funded by a State government” for purposes of determining whether an organization qualifies as a State organization as described in proposed § 14.628(b). Two commenters asked about the extent to which an organization must be funded by a State in order to meet this requirement and one also asked whether a local group that receives some State funding could qualify. Another commenter suggested that a State agency should not be disqualified under this section if it shares facilities with a private organization that shares the cost of the facilities. To address the stated concerns, we have amended § 14.628(b) to specify that an organization must be “primarily” funded by a State in order to qualify under that section.

In proposed § 14.628(d)(1)(i), we are maintaining the existing requirement that an organization requesting recognition demonstrate that recognition would benefit veterans. This requirement was inadvertently omitted in the proposed amendment to § 14.628.

One commenter suggested that proposed § 14.628(d)(1)(iv)(A) state that State organizations not be required to provide representation before the Board of Veterans’ Appeals in Washington, DC, if claimants are properly notified in writing of this limitation in service. We believe that this situation is adequately covered in § 14.628(d)(1)(iv) as proposed and therefore make no change based on this comment.

One commenter expressed concern that proposed §§ 14.627(h) and 14.628(d)(1)(iv)(B) could be interpreted as precluding a service organization from declining representation in a frivolous claim, a claim where a proper representative-client relationship cannot be maintained, or a claim where a conflict of interest exists on the part of the organization, unless the organization had previously submitted a statement of policy pursuant to proposed

§ 14.628(d)(1)(iv)(B) stating its intention with respect to such claims. The commenter stated that service organizations should be given the same discretion to decline representation as private attorneys have in such instances.

Another commenter requested clarification of whether, under the definition of “complete claims service” in proposed § 14.627(h), a representative can elect not to join in an administrative appeal. A third commenter requested clarification of whether an organization or an individual representative may determine whether to provide representation in a particular case.

Pursuant to proposed § 14.628(d)(1)(iv), in order to be recognized, an organization must provide complete claims service or give written notice of any limitation in its claims service. “Complete claims service” is defined in § 14.627(h) as including representation through completion of an administrative appeal.

These provisions are intended to ensure that a recognized organization maintains a policy and capability of providing each claimant with representation throughout the course of a claim and administrative appeal or provide written notice of limitations in service and advice concerning alternative service. They are not intended to limit the organization’s discretion to determine whether an appeal is appropriate in a particular claim or to decline representation in an individual case where the circumstances of the case made representation by the organization impracticable or inappropriate. So long as an organization has a policy and capability of providing complete claims service, the requirement for recognition will be met regardless of whether the organization or an individual representative of the organization determines that an administrative appeal is not appropriate based on the facts and law in an individual case and chooses not to participate in the appeal or that based on the circumstances of a particular case representation is rendered impracticable or inappropriate due to the frivolous nature of the claim, the inability to maintain an appropriate representative-claimant relationship, or the potential for a conflict of interest on the part of the organization if representation is provided. A note has been added following

§ 14.628(d)(1)(iv)(B) to clarify this point.

One commenter suggested that it may be impossible to adequately monitor individual representatives to “ensure proper handling of claims” as required by proposed § 14.628(d)(1)(v) if claimants are permitted under proposed

§ 14.631(c) to designate a specific individual service organization representative as their sole representative. The commenter expressed concern that in such a case the organization would lack access to records needed to properly monitor the claim. Regardless of whether a claimant designates an individual or a service organization in a power of attorney, it is a fundamental responsibility of an organization to ensure that its representative provides appropriate assistance to claimants. Although the option for a claimant to designate an individual representative as his or her sole representative may present some difficulty to an organization in monitoring its representatives, this difficulty could be addressed by the organization requiring specific reports from its representatives regarding their activities or by the organization requiring its representatives to decline individual appointments.

One commenter asserted that proposed § 14.628(e) creates an inequitable if not unlawful situation by providing that only the Secretary is authorized to recognize service organizations but that the General Counsel is authorized to deny recognition to service organizations. The commenter suggested that both powers should reside with either the Secretary or the General Counsel. In light of this comment, we have determined that the authority to grant or deny recognition to an organization should reside with the Secretary and have amended § 14.628(e) accordingly.

We also note that electronic filing, via electronic mail or facsimile, of information provided to VA under § 14.628 is acceptable.

Section 14.629 Requirements for Accreditation of Service Organization Representatives; Agents; and Attorneys

One commenter argued that the current introductory text of § 14.629 permitting an “appropriate” VA official to appeal a regional counsel’s determination regarding the qualifications of a service organization representative should not be revised by substitution of reference to a “concerned” VA official, as proposed. The commenter suggested that a “concerned” official could include one motivated by purely personal interests. This change was intended to provide greater specificity in the regulation. Further, it cannot be presumed that VA officials will take official actions based on improper motives. However, to further enhance the specificity of the provision, we have revised the introductory text of § 14.629 to refer to