

are adopting the provisions of the proposed rule as a final rule with the change mentioned above.

Under 38 U.S.C. 1708(c), a Fisher House is a housing facility that is located at or near a VA health care facility, that is available for residential use on a temporary basis by eligible persons, and that was constructed by and donated to VA by the Zachary and Elizabeth M. Fisher Armed Services Foundation or Fisher House Foundation.

Consistent with the limits of statutory authority in 38 U.S.C. 1708(b) and subject to the conditions discussed in this document, this final rule provides that the following are eligible to stay in temporary lodging:

(a) A veteran with an appointment at a VA health care facility for the purpose of receiving health care or a C&P examination; and

(b) A member of the family of such veteran or another person who accompanies such veteran to provide the equivalent of familial support.

This final rule provides that to obtain temporary lodging, a veteran must make an application to the person responsible for coordinating the temporary lodging program at the VA health care facility of jurisdiction. This may be done by letter, electronic means (including telephone, e-mail, or facsimile), or in person at the VA health care facility of jurisdiction. Under the final rule, the veteran must provide the following information:

(a) Veteran's name;

(b) Beginning date and time and duration of scheduled care;

(c) Type of scheduled care;

(d) Name, gender, and relationship to the veteran of person accompanying veteran;

(e) Requested dates for temporary lodging;

(f) Distance, time, and means of travel from the veteran's home to VA health care facility;

(g) Circumstances that may affect the time of travel from the veteran's home to VA health care facility; and

(h) A statement that the veteran is medically stable and capable of self-care or will be accompanied by a caregiver able to provide the necessary care. This will allow for ease of application and provide VA with information necessary to determine whether the veteran is eligible for temporary lodging.

This final rule provides that, as a condition for receiving temporary lodging, a veteran must be required to travel either 50 or more miles, or at least two hours from their home to the VA health care facility, except that the facility Director at the VA health care facility of jurisdiction may make an

exception to distance or time provisions based on exceptional circumstances, such as condition of the veteran, inclement weather, road conditions, or the mode of transportation used by the veteran. We believe this a reasonable interpretation of the requirement at 38 U.S.C. 1708(b)(1) which provides that a veteran must travel a "significant distance" for the veteran and other person to be eligible for temporary housing.

The final rule also provides that, as a condition for receiving temporary lodging, the veteran must be medically stable and must be capable of self-care or be accompanied by a caregiver able to provide the necessary care. This is necessary because VA does not provide nursing or other medical care for temporary lodging beds.

This final rule establishes criteria for determining when temporary lodging will be made available. Consistent with VHA's health care mission, the rule provides that temporary lodging may be furnished in connection with care or C&P examinations provided at a VA health care facility. The rule provides that if the veteran is undergoing extensive treatment or procedures, such as an organ transplant or chemotherapy, eligible persons may be furnished temporary lodging for the duration of the episode of care. The rule also provides that temporary lodging may be available the night before the day of the scheduled care, if the veteran leaving home by 8 a.m., would be unable to arrive at the health care facility by the time of the scheduled care. Further, the rule provides that temporary lodging may be available the night of the scheduled care if, after the completion of the care, the veteran would be unable to return home by 7 p.m. These provisions are designed to allow temporary lodging during the times it would be reasonably needed.

Fisher Houses are available solely for temporary lodging. The final rule provides that non-utilized beds and rooms at a VA health care facility will be made available if not barred by law and if the Director of the VA health care facility determines that such action would not have a negative impact on patient care. The rule also provides that temporary lodging facilities, such as hotels or motels, will be utilized based on availability of local funding as determined by the Director of the health care facility. In addition, temporary lodging will be provided on a first-come first-serve basis. We believe that these provisions constitute an appropriate use of VA facilities and establish a reasonable method for determining priority.

Except for certain medically-related decisions that are left to health care personnel, the final rule provides that decisions concerning temporary lodging are to be made by the person responsible for coordinating the temporary lodging program at the VA health care facility of jurisdiction. We believe these are appropriate delegations of authority.

VA has authority under 38 U.S.C. 1708 to establish charges for temporary lodging. We believe that if we were to charge, we would need to establish exemptions for those who lack the means to pay for lodging accommodations. Further, based on our experience, we believe that the vast majority of veterans who seek temporary lodging fall into this category. Moreover, we believe that administrative costs for determining need and the additional billing costs would exceed amounts we could reasonably expect to collect based on any reasonable charge amount. Accordingly, the final rule provides that costs for temporary lodging shall be borne by VA.

Paperwork Reduction Act

This document contains provisions constituting collections of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521) approved by the Office of Management and Budget under control number 2900–0630.

Executive Order 12866

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

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 sector of \$100 million or more in any given year. This rule would have no consequential effect on State, local, or tribal governments.

Regulatory Flexibility Act

The Secretary hereby certifies that the adoption of 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. The adoption of the final rule will not have an effect on small entities other than possibly the lodging industry. However, any effect would be minuscule. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial