

causes, the District Commander may require or authorize the installation of one or more fog signals to warn the navigator of the presence of the bridge. The fog signals must conform to the installation, range, and sound frequencies provisions in Subpart 67.10 of Part 67 of this chapter. If more than one fog signal is installed on a bridge or in the vicinity, their characteristics must be different to distinguish each signal. The fog signals must be directional to the fullest extent possible to minimize adverse impact on local residents.

§ 118.140 Painting bridge piers.

The District Commander may require painting the sides of bridge channel piers below the superstructure facing traffic white or yellow when they are significantly darkened by weathering or other causes so as to be poorly visible against a dark background.

§ 118.150 Traveller platforms.

The District Commander may require under deck traveller platforms which may significantly reduce the vertical clearance when operated over navigation channels at night to be lighted with quick flashing red lights on each of the four lower corners.

§ 118.160 Vertical clearance gauges.

(a) When necessary for reasons of safety of navigation, the District Commander may require or authorize the installation of clearance gauges. Except as specified in § 117.47(b) of this chapter for certain drawbridges, clearance gauges must meet the requirements of this section.

(b) Clearance gauges must indicate the vertical distance between "low steel" of the bridge channel span and the level of the water, measured to the bottom of the foot marks, read from top to bottom. Each gauge must be installed on the end of the right channel pier or pier protection structure facing approaching vessels and extend to a reasonable height above high water so as to be meaningful to the viewer. Other or additional locations may be prescribed by the District Commander if particular conditions or circumstances warrant.

(c) *Construction.* Each gauge must be permanently fixed to the bridge pier or pier protection structure and made of a durable material of sufficient strength to provide resistance to weather, tide, and current. Gauges may be painted directly on the bridge channel pier or pier protection structure if the surface is suitable and has sufficient width to accommodate the foot marks (graduations) and numerals.

(d) *Numerals.* (1) Each gauge must be marked by black numerals and foot marks on a white background. Paint, if used, must be of good exterior quality, resistant to excessive chalking or bleeding. Manufactured numerals and background material may be used.

(2) The size, type, and spacing of numerals must conform to the Standard Alphabets for Highway Signs and the following table. The nominal day visibility distance is the distance at which the clearance information needs to be ascertained by approaching vessel operators. The District Commander determines this distance for each bridge.

Nominal day visibility distance (feet)	Height of numeral (inches)	Type of numeral	Vertical spacing of numerals (feet)
Less than 500	12	Series C	2
500 to 750	18	Series C	2
750 to 1,000	24	Series D	5
1,000 to 2,000	30	Series E	5
More than 2,000	36	Series E	10

(3) The length of the foot marks must be no less than the width of a single numeral used (except numerals 1 and 4), be the same thickness as the width of stroke of the numeral, and extend to the nearest margin of the white background. Foot marks must be spaced every foot for nominal day visibility of less than 500 feet, every two feet for a nominal day visibility of more than 500 feet but less than 1,000 feet, and every five feet for nominal day visibility of more than 1,000 feet.

(4) Intermediate foot marks may be used when more precise determination of actual clearance is necessary. Such intermediate foot marks must have a width of stroke one-half the width of the stroke required for the numeral and shall be three-quarters as long as the primary foot marks.

(5) The horizontal distance between the numeral and nearest edge of the white background shall be no less than one-half the width of a single numeral (excepting numerals 1 and 4).

(6) The minimum width of the white background shall be no less than three times the width of a single numeral (excepting numerals 1 and 4) plus the widths of each additional numeral (when multiple numerals are used plus numeral spacing).

(e) *Maintenance.* The owner or operator of the bridge shall maintain each gauge in good repair and legible condition. The bridge owner or operator is responsible for the accuracy of the gauge and shall remeasure the vertical distance of the numerals and foot marks below "low steel" of the bridge whenever the gauge is repainted or the structure is repaired.

Dated: April 14, 1986.

T.J. Wojnar,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation.

[FR Doc. 86-8653 Filed 5-1-86; 8:45 am]

BILLING CODE 4910-14-M

VETERANS ADMINISTRATION

38 CFR Part 21

Veterans Education; Adjustments in the G.I. Bill Resulting From the Veterans' Educational Assistance Act of 1984

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: These regulations implement provisions of the Veteran's Educational Assistance Act of 1984 which affect people eligible to receive benefits under the dependents' educational assistance program or the G.I. Bill. Some regulations which deal primarily with the G.I. Bill are amended to show that they also apply to the new educational program for members of the Armed Forces or to the new educational program for members of the Selected Reserve, or both. These regulations will acquaint the public with the way in which the VA (Veterans Administration) will implement these provisions of law.

EFFECTIVE DATES: The amendment to 38 CFR 21.4005(c) is effective April 14, 1986. In keeping with the Veterans' Educational Assistance Act of 1984, the rest of the regulations are effective October 19, 1984.

FOR FURTHER INFORMATION CONTACT:

June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420 (202) 389-2092.

SUPPLEMENTARY INFORMATION: On pages 47066 through 47068 of the Federal Register of November 14, 1985, it was proposed to amend 38 CFR Part 21 to make it consistent with the Veterans' Educational Assistance Act of 1984. Interested people were given 28 days to submit comments, suggestions or objections.

The VA received one letter from an educational organization. The letter writer commented that he had no problem with the proposal. Accordingly, the VA is making the proposal final without change.

The VA is making these regulations retroactively effective on October 19, 1984. Retroactive effect is justified for

the following reasons. Most of these regulations are restrictive. A few are liberalizing. They either repeat portions of Public Law 98-525 or construe the meaning of some of the provisions of that law.

The VA finds that good cause exists for making these regulations, like the sections of the statute they implement, retroactively effective on October 19, 1984. This legislation's restrictions are intended to prevent some people from receiving benefits under more than one of the various educational programs the VA administers. Consequently, a delayed effective date for these regulations would be contrary to statutory design; would complicate administration of several provisions of the law; and might result in some people receiving benefits to which they would not be entitled.

The VA has determined that these regulations are not major rules as that term is defined by E.O. 12291, entitled, Federal Regulation. The regulations will not cause a major increase in costs or prices for anyone. They will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans' Affairs has certified that the regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b) these regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because most of these changes affect only individual benefit recipients. The impact from those that do not affect individuals will result from the underlying law. It will not result from the regulations themselves.

The Catalog of Federal Domestic Assistance numbers for the programs affected by these regulations are 64.111 and 64.117.

List of Subjects in 38 CFR Part 21

Civil rights, claims, education, grant programs-education, loan programs-education, reporting and recordkeeping requirements, schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: April 14, 1986.

Thomas K. Turnage,
Administrator.

PART 21—[AMENDED]

38 CFR Part 21, Vocational Rehabilitation and Education, is amended as follows:

1. Section 21.1022 is amended by adding a new paragraph (b)(6) and a new paragraph (c) to read as follows:

§ 21.1022 Nonduplication—programs administered by the VA.

(b) * * *

(6) 10 U.S.C. ch. 106.
(38 U.S.C. 1781; Pub. L. 98-223, Pub. L. 98-525)

(c) *Chapters 30 and 34.* A veteran who is eligible for educational assistance under chapters 30 and 34 may not receive assistance under both programs concurrently, but must elect which benefit he or she will receive. (38 U.S.C. 1433; Pub. L. 98-525)

2. Section 21.3022 is revised to read as follows:

§ 21.3022 Nonduplication—programs administered by the VA.

(a) *Chapter 35 and most other programs administered by the VA.* A person who is eligible for educational assistance under 38 U.S.C. ch. 35 and is also eligible for assistance under any of the provisions of law listed in this paragraph, must elect which benefit he or she will receive for each program of education that person will pursue. The election is subject to the conditions specified in § 21.4022. The provisions of law are:

- (1) 38 U.S.C. ch. 31,
 - (2) 38 U.S.C. ch. 32,
 - (3) 38 U.S.C. ch. 34,
 - (4) 10 U.S.C. ch. 106,
 - (5) 10 U.S.C. ch. 107,
 - (6) Section 903 of the Department of Defense Authorization Act of 1981, or
 - (7) The Hostage Relief Act of 1980.
- (38 U.S.C. 1781; Pub. L. 98-223, Pub. L. 98-525)

(b) *Chapters 30 and 35.* An individual who is eligible for educational assistance under chapters 30 and 35 may not receive assistance under both programs concurrently, but must elect which benefit he or she will receive. (38 U.S.C. 1433; Pub. L. 98-525)

3. In § 21.4005, paragraphs (a)(1) and (2); (b)(1)(ii) (d) and (e); (b)(2)(ii)(a) and (c)(1) and (2) are revised to read as follows:

§ 21.4005 Conflicting interests.

(a) *General.* (1) An officer or employee of the VA will be immediately

dismissed from his or her office or employment, if while such an officer or employee he or she has owned any interest in, or received any wages, salary, dividends, profits, gratuities, or services from, any school operated for profit in which a veteran or eligible person was pursuing a course of education under 10 U.S.C. ch. 106 or 38 U.S.C. chs. 30, 32, 34, 35 or 36. (10 U.S.C. 2136(b), 38 U.S.C. 1434(a), 1641, 1783(a); Pub. L. 98-525)

(2) The VA will discontinue payments under § 21.4153 to a State approving agency when the Administrator finds that any person who is an officer or employee of a State approving agency has, while he or she was such an officer or employee, owned any interest in, or received any wages, salary, dividends, profits, gratuities, or services from a school operated for profit in which a veteran or eligible person was pursuing a course of education or training under 10 U.S.C. ch. 106 or 38 U.S.C. chs. 30, 32, 34, 35 or 36 unless that agency takes, without delay such steps as may be necessary to terminate the employment of such a person. The VA will not resume payments while such a person is an officer or employee of [delete]

- (i) The State approving agency, or
 - (ii) State Department of Veterans' Affairs, or
 - (iii) State Department of Education.
- (10 U.S.C. 2136(b), 38 U.S.C. 1434(a), 1641, 1783(b); Pub. L. 98-525)

(b) * * *

(1) * * *

(ii) * * *

(d) His or her position does not require him or her to perform duties involved in the investigation of irregular actions on the part of schools or veterans or eligible persons in connection with 10 U.S.C. ch. 106 or 38 U.S.C. chs. 30, 32, 34, 35 or 36.

(e) His or her position is not connected with the processing of claims by, or payments to, schools, or their students enrolled under the provisions of 10 U.S.C. ch. 106 or 38 U.S.C. chs. 30, 32, 34, 35 or 36.

(10 U.S.C. 2136(b), 38 U.S.C. 1434(a), 1641, 1783(b); Pub. L. 98-525)

(2) * * *

(ii) * * *

(a) His or her position does not require him or her to perform duties involved in the investigation of irregular actions on the part of schools or veterans or eligible persons in connection with 10 U.S.C. ch. 106 or 38 U.S.C. chs. 30, 32, 34, 35 or 36. (10 U.S.C.

2136(b), 38 U.S.C. 1434(a), 1641, 1783(b); Pub. L. 98-525)

(c) * * *

(1) Authority is delegated to the Director, Education Service, and to the field station head in the cases of VA employees under his or her jurisdiction, to waive the application of paragraph (a)(1) of this section in the case of any VA employee who meets the criteria of paragraph (b)(1) of this section, and to deny request for a waiver which do not meet those criteria. If the circumstances warrant, a waiver request may be submitted to the Administrator for a decision.

(2) Authority is delegated to the Director, Education Service, in cases of State approving agency employees to waive the application of paragraph (a)(2) of this section in the case of anyone who meets the criteria of paragraph (b)(2) of this section, and to deny requests for a waiver which do not meet those criteria. If the circumstances warrant, a waiver request may be submitted to the Administrator for a decision.

(38 U.S.C. 212(a))

4. In § 21.4009, paragraph (c) is revised to read as follows:

§ 21.4009 Overpayments—waiver or recovery.

(c) *Committee on school liability.* Each field station having jurisdiction over schools with courses approved for training under chapter 106, title 10, United States Code, chs. 30, 32, 34, 35 and/or 36, title 38, United States Code shall establish a Committee on School Liability. The committee or a panel designated by the committee chairperson and drawn from the committee, is authorized to find whether a school is liable for an overpayment.

(10 U.S.C. 2136(b), 38 U.S.C. 1434(a), 1641, 1785; Pub. L. 98-525)

5. In § 21.4020, paragraphs (a) (4) through (7) are revised to read as follows:

§ 21.4020 Two or more programs.

(a) * * *

(4) 38 U.S.C. chs. 30, 32, 34, 35 and 36 and the former ch. 33;

(5) 10 U.S.C. chs. 106 and 107;

(6) Section 903 of the Department of Defense Authorization Act, 1981; and

(7) The Hostage Relief Act of 1980.

(38 U.S.C. 1795(a); Pub. L. 90-631, Pub. L. 92-540, Pub. L. 96-466, Pub. L. 98-223, Pub. L. 98-525)

6. In § 21.4022, paragraph (a) is revised to read as follows:

§ 21.4022 Nonduplication—programs administered by the VA.

(a) *Election.* (1) A veteran or eligible person who is eligible for education or training under more than one of the provisions of law listed in this subparagraph based on his or her own service or based on the service of another person must elect which benefit he or she will receive for each program of education he or she wishes to pursue. Except for an election between 38 U.S.C. chs. 32 and 34 which is irrevocable once a check has been negotiated, the person may reelect at any time. The provisions of law are:

(i) 38 U.S.C. ch. 31,
(ii) 38 U.S.C. ch. 32,
(iii) 38 U.S.C. ch. 34,
(iv) 38 U.S.C. ch. 35,
(v) 10 U.S.C. ch. 106,
(vi) 10 U.S.C. ch. 107,
(vii) Section 903 of the Department of Defense Authorization Act, 1981, or
(viii) The Hostage Relief Act of 1980.
(38 U.S.C. 1781; Pub. L. 98-223, Pub. L. 98-525)

(2) A veteran or eligible person who is eligible for educational assistance under chs. 30 and 34 may not receive assistance under both programs concurrently, but must elect which benefit he or she will receive.

(38 U.S.C. 1433, 1781; Pub. L. 98-233, Pub. L. 98-525)

7. In § 21.4134, paragraphs (b) (1) and (2) and (c)(2) are revised to read as follows:

§ 21.4134 Suspension and discontinuance.

(b) * * *

(1) The program of education or any course in which the veteran or eligible person is enrolled fails to meet any of the requirements of chapter 106 of title 10, United States Code or chapter 30, 32, 34, 35 or 36 of title 38, United States Code, or

(2) The educational institution offering the veteran's or eligible person's course has violated or failed to meet any of the requirements of chapter 106 of title 10, United States Code or chapter 30, 32, 34, 35 or 36 of title 38, United States Code, and

(38 U.S.C. 1790(b); Pub. L. 98-525)

(c) * * *

(2) The educational institution offering the course has violated one or more of the recordkeeping or reporting requirements of chapter 106 of title 10,

United States Code or chapter 30, 32, 34, 35 or 36 of title 38, United States Code.

(10 U.S.C. 2136, 38 U.S.C. 1434, 1790(b); Pub. L. 97-306, Pub. L. 98-525)

8. In § 21.4153, paragraph (c)(4)(i) is revised to read as follows:

§ 21.4153 Reimbursement of expenses.

(c) * * *

(4) * * *

(i) The work has a direct relationship to the requirements of chapter 106 of title 10, United States Code or chapter 30, 32, 34, 35 or 36 of title 38, United States Code, and (10 U.S.C. 2136, 38 U.S.C. 1434, 1774; Pub. L. 98-525)

9. In § 21.4201, paragraphs (c)(4) introductory text, (e)(2) introductory paragraph, (f)(1)(ii) and (g)(2) introductory paragraph are revised to read as follows:

§ 21.4201 Restrictions on enrollment—percentage of students receiving financial support.

(c) * * *

(4) The provisions of paragraph (a) of this section generally do not apply to a course when the total number of veterans and eligible persons receiving assistances under chapters 30, 31, 32, 34, 35 and 36, title 38, United States Code, who are enrolled in the educational institution offering the course, equals 35 percent or less of the total student enrollment at the educational institution (computed separately for the main campus and any branch or extension of the institution). However, the provisions of paragraph (a) of this section will apply to such a course when—

(38 U.S.C. 1673(d); Pub. L. 98-525)

(e) * * *

(2) Assigning students to each part of the ratio. Notwithstanding the provisions of paragraph (a) of this section, the following students will be considered to be nonsupported provided the VA is not furnishing them with educational assistance under title 38, United States Code: (38 U.S.C. 1673(d); Pub. L. 98-525)

(f) * * *

(1) * * *

(ii) Until such time as the total number of veterans and eligible persons receiving assistance under chs. 30, 31, 32, 34, 35 or 36, title 38, United States Code, who are enrolled in the educational institution offering the

course, equals more than 35 percent of the total student enrollment at the educational institution (computed separately for the main campus and any branch or extension of the institution). At that time the procedures contained in paragraph (f)(2) of this section shall apply. (38 U.S.C. 1673(d); Pub. L. 98-525)

(g) * * *

(2) Except for those enrollments with a beginning date before or the same as the date the school completed the most recent computation, no benefits will be paid either under chapter 106, title 10, United States Code or under chs. 30, 32, 34, 35 or 36, title 38, United States Code when that computation established that the course (10 U.S.C. 2136, 38 U.S.C. 1434, 1641, 1673(d); Pub. L. 98-525)

10. In § 21.4206 the introductory paragraph and paragraphs (a) and (e)(1) are revised to read as follows:

§ 21.4206 Reporting fee.

The VA may pay annually to each educational institution furnishing education or each joint apprenticeship training committee acting as a training establishment under 10 U.S.C. ch. 106 or 38 U.S.C. chs. 30, 32, 34, 35 or 36 a reporting fee for required reports or certifications. The reporting fee will be paid as soon as feasible after the end of the calendar year.

(a) Except as provided in paragraph (b) of this section the reporting fee will be computed for each calendar year by multiplying \$7.00 by the number of eligible veterans and eligible persons enrolled under 10 U.S.C. ch. 106, or 38 U.S.C. chs. 30, 32, 34, 35 or 36 on October 31 of that year. (10 U.S.C. 2136, 38 U.S.C. 1434, 1641, 1784(c); Pub. L. 90-77; Pub. L. 92-540, Pub. L. 93-508, Pub. L. 94-502, Pub. L. 95-202, Pub. L. 98-525)

(e) * * *

(1) It has exercised reasonable diligence in determining whether it or any course offered by it approved for the enrollment of veterans or eligible persons meets all of the applicable requirements of ch. 106 of title 10, United States Code or chs. 30, 32, 34, 35 and 36 of title 38, United States Code; and (10 U.S.C. 2136, 38 U.S.C. 1434, 1641, 1784(b); Pub. L. 98-525)

11. In § 21.4207, the introductory paragraph is revised to read as follows:

§ 21.4207 Failure of school to meet requirements.

When the VA discovers facts which appear to warrant a finding that the school is in violation of specific criteria

of 10 U.S.C. ch. 106, or 38 U.S.C. chs. 30, 32, 34, 35 or 36, including failure to meet requirements for approval of a course offered to a veteran or eligible person and institution of policies regarding payment of tuition and fees so as to deny the benefits of the advance payment program, the facts will be referred to the field station Committee on Educational Allowances. (10 U.S.C. 2136, 38 U.S.C. 1434, 1641, 1790(b); Pub. L. 98-525)

12. In § 21.4209, paragraph (a)(1) is revised to read as follows:

§ 21.4209 Examination of records.

(a) * * *

(1) Records and accounts pertaining to veterans or eligible persons who received educational assistance under ch. 106 of title 10, United States Code or chs. 30, 32, 34, 35 or 36 of title 38, United States Code, and (10 U.S.C. 2136, 38 U.S.C. 1434, 1644, 1790; Pub. L. 98-525)

13. In § 21.4250, paragraph (c)(2)(ii) is revised to read as follows:

§ 21.4250 Approval of courses.

(c) * * *

(2) * * *

(ii) A course of education to be pursued under 10 U.S.C. ch. 106 or 38 U.S.C. chs. 30, 32, 34, 35 or 36 offered by a school located in the Canal Zone, Guam or Samoa; (10 U.S.C. 2136, 38 U.S.C. 1434, 1641, 1772; Pub. L. 98-525)

[FR Doc. 86-9958 Filed 5-1-86; 8:45 am]

BILLING CODE 8320-01-M

38 CFR Part 21

Vocational Rehabilitation and Education; Amendments to the Veterans' Job Training Act

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The Veterans' Job Training Act has been amended by the Veterans' Compensation Rate Increase and Job Training Amendments of 1985. These amendments extend the deadline for a veteran to apply for a job training program. They also extend the deadline for beginning a job training program from July 1, 1986 to July 31, 1987. The length of a veteran's period of unemployment which he or she must have in order to qualify as an eligible veteran under the Act is shortened. The regulations which deal with these matters are amended accordingly.

EFFECTIVE DATE: The amendment to 38 CFR 21.4632(e)(2)(ii) is effective February 1, 1986. All other amendments are effective January 13, 1986.

FOR FURTHER INFORMATION CONTACT:

June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue NW, Washington, D.C. 20420 (202) 389-2092.

SUPPLEMENTARY INFORMATION:

Public Law 99-238 changes the name of the Emergency Veterans' Job Training Act of 1983 to the Veterans' Job Training Act. It permits new applicants for the program; extends the deadline for beginning a job training program; and changes the unemployment criterion which must be met by a veteran before he or she can qualify for the program.

The VA finds that good cause exists for making these amended regulations final without previous publications of a notice of proposed rulemaking. The changes contained in these regulations are directly based upon the law. The VA must make the Code of Federal Regulations agree with the law. Public participation in this rulemaking is, therefore, unnecessary. Since a Notice of Proposed Rulemaking is unnecessary and will not be published, this change does not come within the term "rule" as defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601(2), and is therefore not subject to the requirements of that Act.

Nevertheless, these amended regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the RFA, 5 U.S.C. 601-612. Although small entities will be affected by the extension of the Veterans' Job Training Act, all the effects will derive from the change in the law upon which the regulations are based. The regulations themselves will have no effect upon small entities.

The VA has determined that these amended regulations do not contain a major rule as that term is defined by E.O. 12291, entitled Federal Regulation. The regulations will not have a \$100 million annual effect on the economy, and will not cause a major increase in costs or prices for anyone. They will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Catalog of Federal Domestic Assistance number for the program affected by these regulations is 64.121.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs-education, Loan programs-education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: April 15, 1986.

Thomas K. Turnage,
Administrator.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

38 CFR Part 21 is amended as follows:

1. In § 21.4131, paragraph (j) is revised to read as follows:

§ 21.4131 Commencing dates.

(j) *Veterans' Job Training Act* (§ 21.4630). The day following the last day for which the veteran's employer received payments on the veteran's behalf under the *Veteran's Job Training Act*. (Pub. L. 98-77, sec. 13; Pub. L. 99-238, sec. 201(a))

1a. In § 21.4135, paragraph (y) is revised to read as follows:

§ 21.4135 [Amended]

(y) *Veterans' Job Training Act* (§ 21.4632). The first day for which the veteran's employer received payments on the veteran's behalf under the *Veterans' Job Training Act*. (Pub. L. 98-77, sec. 13; Pub. L. 99-238, sec. 201(a))

2. The title of Subpart F-1 and § 21.4600 are revised to read as follows:

Subpart F-1 Veterans' Job Training

§ 21.4600 Job training program.

Sections 21.4600 through 21.4646 establish a *Veterans' Job Training Program* to assist eligible veterans in obtaining employment through training for employment in stable and permanent positions that involve significant training. The VA makes payments to employers who employ and train eligible veterans in these jobs. The payments assist employers in defraying the costs of necessary training. (Pub. L. 98-77, sec. 4; Pub. L. 99-238, sec. 201(a))

3. In § 21.4610, paragraph (a)(1)(ii) is revised to read as follows:

§ 21.4610 Eligibility requirements.

- (a) * * *
- (1) * * *

(ii) Have been unemployed for at least 10 of the 15 weeks immediately preceding the date of his or her application for participation in a job training program. (Pub. L. 98-77, sec. 5; Pub. L. 99-238, sec. 210(c))

4. In § 21.4632, paragraph (e)(2) (i) and (ii) are revised to read as follows:

§ 21.4632 Payments.

- (e) * * *
- (2) * * *

(i) On behalf of any veteran who initially applies for a job training program after January 31, 1987;

(ii) For any job training program which begins after July 31, 1987; (Pub. L. 98-543, sec. 212; Pub. L. 99-108; Pub. L. 99-238, sec. 201(e))

[FR Doc. 86-9957 Filed 5-1-86; 8:45 am]

BILLING CODE 8320-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 433

[BPO-500-FCN]

Medicaid Program; Third Party Liability for Medical Assistance; Correction

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: This final rule amends a provision in the Medicaid regulations relating to the methods that a State must use to pay providers for Medicaid claims that involve third party liability payments. The amendment is necessary to assure that regulations published on November 12, 1985, regarding recovery of reimbursement of a claim payment involving third party liability are implemented properly.

EFFECTIVE DATE: These regulations are effective June 2, 1986.

FOR FURTHER INFORMATION CONTACT: Herb Shankroff, (301) 594-6710.

SUPPLEMENTARY INFORMATION:

Background and Provisions of Regulations

Section 1902(a)(25) of the Social Security Act (the Act) requires States with Medicaid programs to seek reimbursement of payment for medical assistance from a third party to the extent that the party is legally liable for services provided under Medicaid. Section 1903(e) prohibits the use of

Federal funds for Federal matching of State medical assistance expenditures if there is a liable third party. Medicare regulations under 42 CFR 433.139 implement these provisions. Section 433.139, before it was amended on November 12, 1985 (50 FR 46652), permitted States to use either of two methods of paying claims involving third party liability. Under the first method, States could pay claims involving third party liability only to the extent that the agency's allowed payment exceeded the third party liability. Under the second method, States could pay the full allowed amount of the claim but had to seek recovery from the liable third party within 30 days after payment was made. In the November 12 regulations, we made the following changes:

- For Medicaid claims involving third party liability that are processed on or after May 12, 1986, a State may use the second method of paying the entire claim and then seeking reimbursement only if it has obtained a waiver from HCFA authorizing its use.
- The 30-day requirement for seeking recovery of reimbursement of any third party liability was extended to 60 days. This includes claims paid in which third party liability has been established and claims in which the agency learns of the existence of a liable third party after the claim is paid or benefits become available after the claim is paid.

However, as redrafted, the November 12 regulations did not make explicit that the 30-day requirement, now extended to 60 days, for seeking recovery of reimbursement continues to apply to a State that has obtained a waiver, even though the application of the 60-day requirement for recovery was explained in the preamble to the regulations. Therefore, we are amending § 433.139 as published on November 12 to specify that—

- If the agency has an approved waiver to pay a claim in which probable third party liability has been established and then seek recovery of reimbursement, the agency must seek recovery of reimbursement from the third party to the limit of legal liability within 60 days after the end of the month in which payment is made.
- If the agency learns of the existence of a liable third party after a claim is paid, or benefits become available after the claim is paid, the agency must seek recovery of reimbursement within 60 days after the end of the month it learns of the existence of the liable third party or benefits become available.

Waiver of Notice of Proposed Rulemaking

Consistent with the Administrative Procedure Act, we usually issue a notice