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DEPARTMENT OF VETERANS AFFAIRS

8320-01

38 CFR Part 17

RIN 2900-AO34

VA Health Professional Scholarship and Visual Impairment and Orientation and Mobility Professional Scholarship Programs

AGENCIES: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is amending its VA Health Professional Scholarship Program (HPSP) regulations. VA is also establishing regulations for a new program, the Visual Impairment and Orientation and Mobility Professional Scholarship Program (VIOMPSP). These regulations comply with and implement sections 302 and 603 of the Caregivers and Veterans Omnibus Health Services Act of 2010 (the 2010 Act). Section 302 of the 2010 Act established the VIOMPSP, which authorizes VA to provide financial assistance to certain students seeking a degree in visual impairment or orientation or mobility, in order to increase the supply of qualified blind rehabilitation specialists for VA and the United States. Section 603 of the 2010 Act reauthorized and modified HPSP, a program that provides scholarships for education or training in certain health care occupations.

DATES: Effective Date: This final rule is effective [insert date 30 days after date of publication in the FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Nicole Nedd, Healthcare Talent Management Office, Department of Veterans Affairs, 1250 Poydras Street, Suite 1000, New Orleans, LA 70113; (504) 565–4900. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Pursuant to 38 U.S.C. 7601 through 7619, 7633, 7634, and 7636, VA has promulgated regulations implementing the VA Health Professional Scholarship Program (HPSP), codified at 38 CFR 17.600 through 17.612. This rulemaking is amending the HPSP regulations in response to section 603 of the 2010 Act, Public Law 111–163, which amended the statutory authority for this program, particularly the eligibility requirements for the program and VA’s obligations regarding employment of the program participants.

This rulemaking is also establishing new regulations to implement section 302 of the 2010 Act. Section 302 of the 2010 Act established chapter 75 of 38 U.S.C., which requires VA to create a scholarship program similar to the HPSP called the Visual Impairment and Orientation and Mobility Professional Scholarship Program (VIOMPSP). The purpose of the new program “is to increase the supply of qualified blind rehabilitation specialists for [VA] and the Nation.” 38 U.S.C. 7501(b). The statutory authority is substantively similar (and in many ways identical) to the existing authority governing the HPSP. To the maximum extent possible, we are utilizing, and amending as necessary, the existing HPSP regulations to govern the commonalities between both programs, and then adding additional regulations necessary to implement the new VIOMPSP. This will eliminate redundancies between the two programs, facilitate the

administration of the program by VA, and make it easier for the public to understand the details of both programs. The HPSP is governed by current §§ 17.600 through 17.612, and the VIOMPSP is established as new §§ 17.625 through 17.636.

In a document published in the Federal Register on December 26, 2012 (77 FR 75918), VA proposed to amend part 17 of 38 CFR by amending the regulations that govern the HPSP and establishing regulations for the VIOMPSP. We provided a 60-day comment period, which ended on February 25, 2013. We received one comment from an official from the National Federation of the Blind.

The commenter was concerned that the rulemaking did not provide “clear provisions regarding the eligibility of blind or low vision applicants to VIOMPSP.” The commenter noted that the rulemaking was explicit regarding the availability of the program “to institutions with high numbers of Hispanic students and to historically black colleges and universities, but there is no emphasis on encouraging blind people to apply for the program.” We included this reference to particular targeted audiences in § 17.625 because paragraph (c) of 38 U.S.C. 7501 mandates the Secretary to “publicize the scholarship program to educational institutions throughout the United States, with an emphasis on disseminating information to such institutions with high numbers of Hispanic students and to Historically Black Colleges and Universities.” Congress did not issue this mandate to prohibit VA from encouraging or accepting blind applicants to the VIOMPSP, and VA does not interpret, and will not apply, this regulatory emphasis in a way that will discriminate against blind applicants. Moreover, under 38 CFR part 15,

VA is prohibited from “discrimination on the basis of handicap in programs or activities conducted by Executive agencies” under section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973. The VIOMPSP is a program offered by VA and subject to this prohibition against discrimination. As such, VA may not discriminate against blind individuals or individuals with other types of disabilities who wish to participate in the VIOMPSP. Although the commenter raised this issue only in regard to the VIOMPSP, we note that this prohibition against discrimination applies equally to the HPSP.

The commenter also stated that, in § 17.629, VA is obligated to provide applicants with the terms and conditions for participating in the VIOMPSP, but that these terms and conditions “are not posted anywhere on the VA website, so there is no way to verify that sight is part of these terms and conditions.” The commenter recommended that VA state in § 17.630(b) “that blindness will not be a factor when accepting applicants.”

VA may not publish on its Web site the terms and conditions of the VIOMPSP until the regulations that govern this program are published as final in the Federal Register. In general, however, the terms and conditions for participating in the VIOMPSP are stated in proposed §§ 17.625 through 17.636. An amendment to § 17.630(b) is not needed to clarify our acceptance criteria as it applies to blind applicants because, as previously stated, VA may not discriminate against individuals

with any type of disability. VA does not make any changes based on any of the commenter's concerns.

Based on the rationale set forth in the Supplementary Information to the proposed rule and in this final rule, VA is adopting the proposed rule as a final rule without any change.

#### Effect of rulemaking

Title 38 of the Code of Federal Regulations, as revised by this final rulemaking, represents VA's implementation of its legal authority on this subject. Other than future amendments to this regulation or governing statutes, no contrary guidance or procedures are authorized. All existing or subsequent VA guidance must be read to conform with this rulemaking if possible or, if not possible, such guidance is superseded by this rulemaking.

#### Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (at 44 U.S.C. 3507) requires that VA consider the impact of paperwork and other information collection burdens imposed on the public. Under 44 U.S.C. 3507(a), an agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid Office of Management and Budget (OMB) control number. See also 5 CFR 1320.8(b)(3)(vi).

This final rule will impose the following new information collection requirements. The VA Health Professional Scholarship Program contained a collection control number 2900–0352, which expired on April 30, 1997. We have established a new collection control number for the revised VA Health Professional Scholarship Program and for the new Visual Impairment and Orientation and Mobility Professional Scholarship Program. Sections 17.604 and 17.629 contain collections of information under the Paperwork Reduction Act of 1995 for which we requested approval by OMB. As required by the Paperwork Reduction Act of 1995 (at 44 U.S.C. 3507(d)), VA submitted these information collections to OMB for its review. OMB approved these new information collection requirements associated with the final rule and assigned OMB control number 2900-0793.

Under §§ 17.612 and 17.636, a participant of the VA Health Professional Scholarship Program or Visual Impairment and Orientation and Mobility Professional Scholarship Program may seek a waiver or suspension of obligated service or payment under either program by submitting a written request to VA. The requirement for such a written request, however, does not constitute a collection of information under the Paperwork Reduction Act of 1995 requiring OMB approval because the anticipated number of respondents within a 12-month period is less than ten. See 5 CFR 1320.3(c).

Regulatory Flexibility Act

The Secretary 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 will directly affect only individuals and will not directly affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

#### Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a “significant regulatory action,” which requires review by OMB unless OMB waives such review, as “any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations

of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.”

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined, and it has been determined not to be a significant regulatory action under Executive Order.

#### Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any given year. This final rule will have no such effect on State, local, and tribal governments, or on the private sector.

#### Catalog of Federal Domestic Assistance Numbers

There are no Catalog of Federal Domestic Assistance numbers and titles for this rule.

#### Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of

Veterans Affairs. Jose D. Riojas, Chief of Staff, Department of Veterans Affairs, approved this document on August 6, 2013, for publication.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Dated: August 15, 2013

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Robert C. McFetridge, Director,  
Regulation Policy and Management,  
Office of the General Counsel,  
Department of Veterans Affairs.

For the reasons set forth in the preamble, the Department of Veterans Affairs amends 38 CFR part 17 as follows:

## PART 17 – MEDICAL

1. The authority citation for part 17 continues to read as follows:

AUTHORITY: 38 U.S.C. 501, and as noted in specific sections.

2. Revise the authority citation preceding § 17.600 to read as follows:

Authority: 38 U.S.C. 7601–7619, 7633, 7634, and 7636.

3. Revise § 17.600 to read as follows:

### § 17.600 Purpose.

The purpose of §§ 17.600 through 17.612 is to establish the requirements for the award of scholarships under the VA Health Professional Scholarship Program (HPSP) to students pursuing a course of study leading to a degree in certain health care occupations, listed in 38 U.S.C. 7401(1) and (3), to assist in providing an adequate supply of such personnel for VA. The HPSP allows VA to provide scholarship awards to facilitate recruitment and retention of employees in several hard-to-fill health care occupations.

(Authority: 38 U.S.C. 7601(b))

4. Revise § 17.601 to read as follows:

§ 17.601 Definitions.

The following definitions apply to §§ 17.600 through 17.636:

Acceptable level of academic standing means the level at which a participant may continue to attend school under the standards and practices of the school at which a participant is enrolled in a course of study for which an HPSP or VIOMPSP scholarship was awarded.

Acceptance agreement means a signed legal document between VA and a participant of the HPSP or VIOMPSP that specifies the obligations of VA and the participant upon acceptance to the HPSP or VIOMPSP. An acceptance agreement must incorporate by reference, and cannot be inconsistent with, §§ 17.600 through 17.612 (for HPSP agreements) or §§ 17.626 through 17.636 (for VIOMPSP agreements), and must include:

- (1) A mobility agreement.
- (2) Agreement to accept payment of the scholarship.
- (3) Agreement to perform obligated service.
- (4) Agreement to maintain enrollment and attendance in the course of study for which the scholarship was awarded, and to maintain an acceptable level of academic standing.

Affiliation agreement means a legal document that enables the clinical education of trainees at a VA or non-VA medical facility. An affiliation agreement is required for all education or training that involves direct patient contact, or contact with patient information, by trainees from a non-VA institution.

Citizen of the United States means any person born, or lawfully naturalized, in the United States, subject to its jurisdiction and protection, and owing allegiance thereto.

Credential means the licensure, registration, certification, required education, relevant training and experience, and current competence necessary to meet VA's qualification standards for employment in certain health care occupations.

Degree represents the successful completion of the course of study for which a scholarship was awarded.

(1) HPSP. For the purposes of the HPSP, VA recognizes the following degrees: a doctor of medicine; doctor of osteopathy; doctor of dentistry; doctor of optometry; doctor of podiatry; or an associate, baccalaureate, master's, or doctorate degree in another health care discipline needed by VA.

(2) VIOMPSP. For the purposes of the VIOMPSP, VA recognizes a bachelor's, master's, education specialist or doctorate that meets the core curriculum and supervised practice requirements in visual impairment and blindness.

Full-time student means an individual who meets the requirements for full time attendance as defined by the school in which they are enrolled.

HPSP means the VA Health Professional Scholarship Program authorized by 38 U.S.C. 7601 through 7619.

Mobility agreement means a signed legal document between VA and a participant of the HPSP or VIOMPSP, in which the participant agrees to accept assignment at a VA facility selected by VA where he or she will fulfill the obligated service requirement. A mobility agreement must be included in the participant's acceptance agreement. Relocation to another geographic location may be required.

Obligated service means the period of time during which the HPSP or VIOMPSP participant must be employed by VA in a full-time clinical occupation for which the degree prepared the participant as a requirement of the acceptance agreement.

Part-time student. (1) HPSP. For the purposes of the HPSP, part-time student means an individual who is a VA employee, and who has been accepted for enrollment or enrolled for study leading to a degree on a less than full-time basis but no less than half-time basis.

(2) VIOMPSP. For the purposes of the VIOMPSP, part-time student means an individual who has been accepted for enrollment or enrolled for study leading to a degree on a less than full-time basis but no less than half-time basis.

Participant or scholarship program participant means an individual whose application to the HPSP or VIOMPSP has been approved, whose acceptance agreement has been consummated by VA, and who has yet to complete the period of obligated service or otherwise satisfy the obligation or financial liabilities of such agreement.

Required fees means those fees which are charged by the school to all students pursuing a similar curriculum in the same school.

Scholarship Program means the VA Health Professional Scholarship Program (HPSP) authorized by 38 U.S.C. 7601 through 7619.

School means an academic institution that is accredited by a body or bodies recognized for accreditation by the U.S. Department of Education or by the Council for Higher Education Accreditation (CHEA), and that meets the following requirements:

(1) For the purposes of the HPSP, offers a course of study leading to a degree in a health care service discipline needed by VA.

(2) For the purposes of the VIOMPSP, offers a course of study leading to a degree in visual impairment or orientation and mobility.

School year means for purposes of the HPSP and its stipend payment, and the VIOMPSP, all or part of the 12-month period that starts on the date the participant begins school as a full-time student.

Secretary means the Secretary of Veterans Affairs or designee.

State means one of the several States, Territories and possessions of the United States, the District of Columbia and the Commonwealth of Puerto Rico.

Under Secretary for Health means the Under Secretary for Health of the Department of Veterans Affairs or designee.

VA means the Department of Veterans Affairs.

VA employee means an individual permanently employed by VA. A VA employee does not include an individual who is employed temporarily or on a contractual basis.

VA health care facility means a VA medical center, independent outpatient clinic, domiciliary, nursing home (community living center), residential treatment program, and any of a variety of community based clinics (including community based outpatient clinics, rural health resource centers, primary care telehealth clinics, and Vet Centers), consolidated mail outpatient pharmacies, and research centers.

VIOMPSP means the Visual Impairment and Orientation and Mobility Professional Scholarship Program authorized by 38 U.S.C. 7501 through 7505.

(Authority: 38 U.S.C. 301, 7501(a)(1), 7504, 7602(a), 7604(1)(B), 7633)

5. Amend § 17.602 by:
  - a. Revising paragraph (a)(1).
  - b. Adding paragraph (a)(6).
  - c. Revising the authority citation following paragraph (a).

The revisions and addition read as follows:

§ 17.602 Eligibility for the HPSP.

(a) \* \* \*

(1) Be unconditionally accepted for enrollment or be enrolled as a full-time student in an accredited school located in a State;

\* \* \* \* \*

(6) Clinical tours. An applicant for a scholarship under the HPSP must agree to perform clinical tours while enrolled in the course of education or training for which the scholarship is provided. VA will determine the assignments and locations of the clinical tour.

(Authority: 38 U.S.C. 7618(b))

\* \* \* \* \*

6. Revise § 17.603 to read as follows:

§ 17.603. Availability of HPSP scholarships.

(a) General. A HPSP scholarship will be awarded only when necessary to assist VA in alleviating shortages or anticipated shortages of personnel in the health professions stated in paragraph (b) of this section. VA will determine the existence of shortage of personnel in accordance with specific criteria for each health care profession. VA has the authority to establish the number of scholarships to be awarded in a fiscal year, and the number that will be awarded to full-time and part-time students.

(b) Qualifying fields of education. VA will grant HPSP scholarships in a course of study in those disciplines or programs where recruitment is necessary for the improvement of health care of veterans. Those disciplines or programs are listed in 38 U.S.C. 7401(1) and (3).

(Authority: 38 U.S.C. 7401(1), (3), 7612(b)(2), 7612(b)(4), and 7603(b)(1))

7. Revise § 17.604 to read as follows:

§ 17.604 Application for the HPSP.

An applicant for the HPSP must submit an accurate and complete application, including a signed written acceptance agreement.

(Authority: 38 U.S.C. 7612(c)(1)(B))

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900–0793.)

8. Amend § 17.605 by:

- a. Revising paragraph (a) introductory text.
- b. Redesignating paragraphs (d) and (e) as paragraphs (e) and (f), respectively.
- c. Adding a new paragraph (d).

The revisions and addition read as follows:

§ 17.605 Selection of HPSP participants.

(a) General. In deciding which HPSP application to approve, VA will first consider applications submitted by applicants entering their final year of education or training and applicants who previously received HPSP scholarships and who meet the conditions of paragraph (f) of this section. Except for paragraph (f) of this section, applicants will be evaluated and selected using the criteria specified in paragraph (b) of this section. If there are a larger number of equally qualified applicants than there are

awards to be made, then VA will first select veterans, and then use a random method as the basis for further selection. In selecting participants to receive awards as part-time students, VA may, at VA's discretion—

\* \* \* \* \*

(d) Notification of approval. VA will notify the individual in writing that his or her application has been accepted and approved. An individual becomes a participant in the program upon receipt of such approval by VA.

\* \* \* \* \*

9. Amend § 17.607 by:

- a. Revising paragraph (b)(1).
- b. Revising the authority citation at the end of paragraph (b).
- c. Revising paragraphs (c) and (d).

The revisions read as follows:

§ 17.607 Obligated service.

\* \* \* \* \*

(b) Beginning of service. (1)(i) Date of employment. Except as provided in paragraph (b)(2) of this section, a participant's obligated service will begin on the date VA appoints the participant as a full-time VA employee in a clinical occupation for which

the degree prepared the participant. VA will appoint the participant to such position as soon as possible, but no later than 90 days after the date that the participant receives his or her degree, or the date the participant becomes licensed in a State or becomes certified, whichever is later. VA will actively assist and monitor participants to ensure State licenses or certificates are obtained in a minimal amount of time following graduation. If a participant fails to obtain his or her degree, or fails to become licensed in a State or become certified no later than 180 days after receiving the degree, the participant is considered to be in breach of the acceptance agreement.

(ii) Notification. VA will notify the participant of the work assignment and its location no later than 60 days before the date on which the participant must begin work.

(iii) VA mentor. VA will ensure that the participant is assigned a mentor who is employed at the same facility where the participant performs his or her obligated service at the commencement of such service.

\* \* \* \* \*

(Authority: 38 U.S.C. 7616(b), 7616(c), 7618(a))

(c) Duration of service. (1) Full-time student. A participant who attended school as a full-time student will agree to serve as a full-time clinical employee in the Veterans Health Administration for 1 calendar year for each school year or part thereof for which a scholarship was awarded, but for no less than 2 years.

(2) Part-time student. Obligated service to VA for a participant who attended school as a part-time student must be satisfied by full-time clinical employment. The period of obligated service will be reduced from that which a full-time student must serve under paragraph (c)(1) of this section in accordance with the proportion that the number of credit hours carried by the part-time student in any school year bears to the number of credit hours required to be carried by a full-time student who is pursuing the same degree; however, the period of obligated service will not be for less than 1 year.

(Authority: 38 U.S.C. 7612(c)(1)(B), 7612(c)(3)(A), 7618(c))

(d) Location for service. VA reserves the right to make final decisions on the location for service obligation. A participant who receives a scholarship as a full-time student must be willing to relocate to another geographic location to carry out his or her service obligation according to the participant's mobility agreement. A participant who received a scholarship as a part-time student may be allowed to serve the period of obligated service at the health care facility where the individual was assigned when the scholarship was authorized, if there is a vacant position which will satisfy the individual's mobility agreement at that facility.

(Authority: 38 U.S.C. 7616(a))

\* \* \* \* \*

10. Revise § 17.611 to read as follows:

§ 17.611 Bankruptcy.

Any payment obligation incurred may not be discharged in bankruptcy under title 11 U.S.C. until 5 years after the date on which the payment obligation is due. This section applies to participants in the HPSP and the VIOMPSP.

(Authority: 38 U.S.C. 7505(d), 7634(c))

11. Amend § 17.612 by:

- a. Revising paragraph (a).
- b. Revising paragraph (b)(1).
- c. Removing the authority citation at the end of paragraph (c).
- d. Adding new paragraphs (e) and (f).
- e. Revising the authority citation at the end of the section.

The revisions and additions read as follows:

§ 17.612 Cancellation, waiver, or suspension of obligation.

(a) General. (1) This section applies to participants in the HPSP or the VIOMPSP.

(2) Any obligation of a participant for service or payment will be cancelled upon the death of the participant.

(b) Waivers or suspensions. (1) A participant may seek a waiver or suspension of the obligated service or payment obligation incurred under this program by submitting a written request to VA setting forth the basis, circumstances, and causes which support the requested action. Requests for waivers or suspensions must be submitted to VA no later than 1 year after the date VA notifies the participant that he or she is in breach of his or her acceptance agreement. A participant seeking a waiver or suspension must comply with requests for additional information from VA no later than 30 days after the date of any such request.

(i) Waivers. A waiver is a permanent release by VA of the obligation either to repay any scholarship funds that have already been paid to or on behalf of the participant, or to fulfill any other acceptance agreement requirement. If a waiver is granted, then the waived amount of scholarship funds may be considered taxable income.

(ii) Suspensions. VA may approve an initial request for a suspension for a period of up to 1 year. A suspension may be extended for one additional year, after which time the participant will be in breach of his or her acceptance agreement. If a suspension is approved:

(A) VA will temporarily discontinue providing any scholarship funds to or on behalf of the participant while the participant's scholarship is in a suspended status; or

(B) VA will temporarily delay the enforcement of acceptance agreement requirements.

\* \* \* \* \*

(e) Eligibility to reapply for award. Any previous participant of any federally sponsored scholarship program who breached his or her acceptance agreement or similar agreement in such scholarship program is not eligible to apply for a HPSP or VIOMPSP. This includes participants who previously applied for, and received, a waiver under this section.

(f) Finality of decisions. Decisions to approve or disapprove waiver requests are final and binding determinations. Such determinations are not subject to reconsideration or appeal.

(Authority: 38 U.S.C. 7505(c), 7634(a), 7634(b))

12. Add an undesignated center heading and §§ 17.625 through 17.636 to read as follows:

Visual Impairment and Orientation and Mobility Professional Scholarship Program

Sec.

17.625 Purpose.

17.626 Definitions.

17.627 Eligibility for the VIOMPSP.

17.628 Availability of VIOMPSP scholarships.

17.629 Application for the VIOMPSP.

- 17.630 Selection of VIOMPSP participants.
- 17.631 Award procedures.
- 17.632 Obligated service.
- 17.633 Deferment of obligated service.
- 17.634 Failure to comply with terms and conditions of participation.
- 17.635 Bankruptcy.
- 17.636 Cancellation, waiver, or suspension of obligation.

### Visual Impairment and Orientation and Mobility Professional Scholarship Program

#### § 17.625 Purpose.

The purpose of §§ 17.625 through 17.636 is to establish the requirements for the award of scholarships under the Visual Impairment and Orientation and Mobility Professional Scholarship Program (VIOMPSP) to students pursuing a program of study leading to a degree in visual impairment or orientation and mobility. The scholarship is designed to increase the supply of qualified Blind Rehabilitation Specialists and Blind Rehabilitation Outpatient Specialists available to VA. The scholarship will be publicized throughout educational institutions in the United States, with an emphasis on disseminating information to such institutions with high numbers of Hispanic students and to historically black colleges and universities.

(Authority: 38 U.S.C. 7501)

§ 17.626 Definitions.

For the definitions that apply to §§ 17.625 through 17.636, see § 17.601.

(Authority: 38 U.S.C. 501)

§ 17.627 Eligibility for the VIOMPSP.

(a) General. To be eligible for the VIOMPSP, an applicant must meet the following requirements:

(1) Be unconditionally accepted for enrollment or currently enrolled in a program of study leading to a degree in orientation and mobility, low vision therapy, or vision rehabilitation therapy, or a dual degree (a program in which an individual becomes certified in two of the three professional certifications offered by the Academy for Certification of Visual Rehabilitation and Education Professionals) at an accredited educational institution that is in a State;

(2) Be a citizen of the United States; and

(3) Submit an application to participate in the VIOMPSP, as described in § 17.629.

(b) Obligated service to another entity. Any applicant who, at the time of application, owes a service obligation to any other entity to perform service after completion of the course of study is ineligible to receive a VIOMPSP scholarship.

(Authority: 38 U.S.C. 7501(a), 7502(a), 7504(3))

§ 17.628 Availability of VIOMPSP scholarships.

VA will make awards under the VIOMPSP only when VA determines it is necessary to assist in alleviating shortages or anticipated shortages of personnel in visual impairment or orientation and mobility programs. VA's determination of the number of VIOMPSP scholarships to be awarded in a fiscal year, and the number that will be awarded to full-time and/or part-time students, is subject to the availability of appropriations.

(Authority: 38 U.S.C. 7501(a), 7503(c)(2))

§ 17.629 Application for the VIOMPSP.

(a) Application-general. Each individual desiring a VIOMPSP scholarship must submit an accurate and complete application, including a signed written acceptance agreement.

(b) VA's duties. VA will notify applicants prior to acceptance in the VIOMPSP of the following information:

(1) A fair summary of the rights and liabilities of an individual whose application is approved by VA and whose acceptance agreement is consummated by VA; and

(2) Full description of the terms and conditions that apply to participation in the VIOMPSP and service in VA.

(Authority: 38 U.S.C. 501(a), 7502(a)(2))

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900–0793.)

§ 17.630 Selection of VIOMPSP participants.

(a) General. In deciding which VIOMPSP applications to approve, VA will first consider applications submitted by applicants entering their final year of education or training. Applicants will be evaluated and selected using the criteria specified in paragraph (b) of this section. If there are a larger number of equally qualified applicants than there are awards to be made, then VA will first select veterans, and then use a random method as the basis for further selection.

(b) Selection criteria. In evaluating and selecting participants, VA will take into consideration those factors determined necessary to assure effective participation in the VIOMPSP. These factors will include, but are not limited to, the following:

- (1) Academic performance;
- (2) Work/volunteer experience, including prior rehabilitation or health care employment and VA employment;
- (3) Faculty and employer recommendations; or
- (4) Career goals.

(c) Notification of approval. VA will notify the individual in writing that his or her application has been accepted and approved. An individual becomes a participant in the program upon receipt of such approval by VA.

(d) Duration of VIOMPSP award. VA will award a VIOMPSP scholarship for a period of time equal to the number of years required to complete a program of study leading to a degree in orientation and mobility, low vision therapy, or vision rehabilitation therapy, or a dual degree. The number of years covered by an individual scholarship award will be based on the number of school years that the participant has yet to complete his or her degree at the time the VIOMPSP scholarship is awarded. Subject to the availability of funds, VA will award the VIOMPSP as follows:

(1) Full-time scholarship. A full-time scholarship is awarded for a minimum of 1 school year to a maximum of 4 school years;

(2) Part-time scholarships. A part-time scholarship is awarded for a minimum of 1 school year to a maximum of 6 school years.

(Authority: 38 U.S.C. 7504(3))

#### § 17.631 Award procedures.

(a) Amount of scholarship. (1) A VIOMPSP scholarship award will not exceed the total tuition and required fees for the program of study in which the applicant is enrolled. All such payments to scholarship participants are exempt from Federal taxation.

(2) The total amount of assistance provided under the VIOMPSP for an academic year to an individual who is a full-time student may not exceed \$15,000.00.

(3) The total amount of assistance provided under the VIOMPSP for an academic year to a participant who is a part-time student shall bear the same ratio to the amount that would be paid under paragraph (a)(2) of this section if the participant were a full-time student as the coursework carried by the participant to full-time coursework.

(4) The total amount of assistance provided to an individual may not exceed \$45,000.00.

(5) In the case of an individual enrolled in a program of study leading to a dual degree described in § 17.627(a)(1), such tuition and fees will not exceed the amounts necessary for the minimum number of credit hours to achieve such dual degree.

(6) Financial assistance may be provided to an individual under the VIOMPSP to supplement other educational assistance to the extent that the total amount of educational assistance received by the individual during an academic year does not exceed the total tuition and fees for such academic year.

(7) VA will make arrangements with the school in which the participant is enrolled to issue direct payment for the amount of tuition or fees on behalf of the participant.

(b) Repeated course work. Additional costs relating to the repeated course work will not be paid under this program. VA will resume any scholarship payments suspended under this section upon notification by the school that the participant has

returned from the leave-of-absence or has satisfactorily completed the repeated course work and is pursuing the course of study for which the VIOMPSP was awarded.

(Authority: 38 U.S.C. 7503, 7504(3))

§ 17.632 Obligated service.

(a) General provision. Except as provided in paragraph (d) of this section, each participant is obligated to provide service as a full-time clinical VA employee in the rehabilitation practice of the participant's discipline in an assignment or location determined by VA.

(b) Beginning of service. A participant's obligated service will begin on the date on which the participant obtains any required applicable credentials and when appointed as a full-time clinical VA employee in a position for which the degree prepared the participant. VA will appoint the participant to such position as soon as possible, but no later than 90 days after the date that the participant receives his or her degree, or the date the participant obtains any required applicable credentials, whichever is later. If a participant fails to obtain his or her degree, or fails to obtain any required applicable credentials within 180 days after receiving the degree, the participant is considered to be in breach of the acceptance agreement.

(c) Duration of service. The participant will agree to serve as a full-time clinical VA employee for 3 calendar years which must be completed no later than 6 years after

the participant has completed the program for which the scholarship was awarded and received a degree referenced in § 17.627(a)(1).

(d) Location and assignment of obligated service. VA reserves the right to make final decisions on the location and assignment of the obligated service. A participant who receives a scholarship must agree as part of the participant's mobility agreement that he or she is willing to accept the location and assignment where VA assigns the obligated service. Geographic relocation may be required.

(e) Creditability of advanced clinical training. No period of advanced clinical training will be credited towards satisfying the period of obligated service incurred under the VIOMPSP.

(Authority: 38 U.S.C. 7504(2)(D), 7504(3))

§ 17.633 Deferment of obligated service.

Deferment of obligated service under the VIOMPSP is treated in the same manner as deferment of obligated service under the HPSP under § 17.608.

(Authority: 38 U.S.C. 7504(3))

§ 17.634 Failure to comply with terms and conditions of participation.

(a) Participant refuses to accept payment of the VIOMPSP. If a participant, other than one described in paragraph (b) of this section, refuses to accept payment or instructs the school not to accept payment of the VIOMPSP scholarship provided by VA, the participant must, in addition to any obligation incurred under the agreement, pay to the United States the amount of \$1,500 in liquidated damages. Payment of this amount must be made no later than 90 days from the date that the participant fails to accept payment of the VIOMPSP or instructs the school not to accept payment.

(b) Participant fails to complete course of study or does not obtain certification. A participant described in paragraphs (b)(1) through (4) of this section must, instead of otherwise fulfilling the terms of his or her acceptance agreement, pay to the United States an amount equal to all VIOMPSP funds awarded under the acceptance agreement. Payment of this amount must be made no later than 1 year after the date that the participant meets any of the criteria described in paragraphs (b)(1) through (4) of this section, unless VA determines that a longer period is necessary to avoid hardship. No interest will be charged on any part of this indebtedness. A participant will pay such amount if one of the following criteria is met:

- (1) The participant fails to maintain an acceptable level of academic standing;
- (2) The participant is dismissed from the school for disciplinary reasons;

(3) The participant, for any reason, voluntarily terminates the course of study or program for which the scholarship was awarded including a reduction of course load from full-time to part-time before completing the course of study or program; or

(4) The participant fails to become certified in the discipline for which the degree prepared the participant, if applicable, no later than 180 days after the date such person becomes eligible to apply for certification.

(c) Participant fails to perform all or any part of their service obligation. (1)

Participants who breach their agreements by failing to begin or complete their service obligation, for any reason, including the loss, revocation, suspension, restriction, or limitation of required certification, and other than provided for under paragraph (b) of this section, must repay the portion of all VIOMPSP funds paid to or on behalf of the participant, adjusted for the service that they provided. To calculate the unearned portion of VIOMPSP funds, subtract the number of months of obligated service rendered from the total months of obligated service owed, divide the remaining months by the total obligated service, then multiply by the total amount of VIOMPSP funds paid to or on behalf of the participant. The following formula may be used in determining the unearned portion:

$A = P((t-s)/t)$  in which

“A” is the amount the United States is entitled to recover;

“P” is the amounts paid under the VIOMPSP, to or on behalf of the participant;

“t” is the total number of months in the participant’s period of obligated service; and

“s” is the number of months of obligated service rendered.

(2) The amount that the United States is entitled to recover will be paid no later than 1 year after the date the applicant failed to begin or complete the period of obligated service, as determined by VA.

(Authority: 38 U.S.C. 7505(a), 7505(b))

§ 17.635 Bankruptcy.

Bankruptcy under the VIOMPSP is treated in the same manner as bankruptcy for the HPSP under § 17.611.

(Authority: 38 U.S.C. 7505(c), 7505(d))

§ 17.636 Cancellation, waiver, or suspension of obligation.

Cancellation, waiver, or suspension procedures under the VIOMPSP are the same as those procedures for the HPSP under § 17.612.

(Authority: 38 U.S.C. 7505(c))

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