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DEPARTMENT OF VETERANS AFFAIRS

8320-01

38 CFR Part 17

RIN 2900-AQ01

Reimbursement of qualifying adoption expenses for certain veterans

AGENCY: Department of Veterans Affairs.

ACTION: Interim final rule.

SUMMARY: The Department of Veterans Affairs (VA) amends its regulation to provide for reimbursement of qualifying adoption expenses incurred by a veteran with a service-connected disability that results in the inability of the veteran to procreate without the use of fertility treatment. Under the Continuing Appropriations and Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2017, and Zika Response and Preparedness Act, VA may use funds appropriated or otherwise made available to VA for the “Medical Services” account to provide adoption reimbursement to these veterans. Under the law, reimbursement may be for the adoption-related expenses for an adoption that is finalized after the date of the enactment of this Act under the same terms as apply under the adoption reimbursement program of the Department of Defense (DoD), as authorized in DoD Instruction 1341.09, including the reimbursement limits and requirements set forth in such instruction. This rulemaking implements the new adoption reimbursement benefit for covered veterans.

DATES: Effective date: This rule is effective on [insert date of publication in the FEDERAL REGISTER].

Comment date: Comments must be received on or before [insert date 60 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: Written comments may be submitted by e-mail through www.regulations.gov; by mail or hand-delivery to Director, Regulation Policy and Management (00REG), Department of Veterans Affairs, 810 Vermont Avenue, NW, Room 1068, Washington, DC 20420; or by fax to (202) 273-9026. (This is not a toll-free number.) Comments should indicate that they are submitted in response to "RIN 2900-AQ01 - Reimbursement of qualifying adoption expenses for certain veterans." Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1068, between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays). Please call (202) 461-4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Patricia M. Hayes, Ph.D. Chief Consultant, Women's Health Services, Patient Care Services, Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Ave. NW, Washington, DC 20420. (202) 461-0373. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Section 260 of the Continuing Appropriations and Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2017,

and Zika Response and Preparedness Act (Public Law 114-223) allows VA to use appropriated funds available to VA for the Medical Services account to provide fertility counseling and treatment using assisted reproductive technology (ART) to a covered veteran or the spouse of a covered veteran, or adoption reimbursement to a covered veteran. On January 19, 2017, VA published an interim final rule at 82 FR 6275 addressing fertility counseling and treatment using ART, including in vitro fertilization (IVF) (which is a type of ART), for both covered veterans and spouses. We now address reimbursement of qualifying adoption expenses in this rulemaking.

Per the statute, veterans with a service-connected disability that results in the inability of the veteran to procreate without the use of fertility treatment are authorized to receive reimbursement for certain adoption-related expenses for an adoption that is finalized after September 29, 2016, (the date the law was enacted) under the same terms as apply under the adoption reimbursement program of DoD, as authorized in DoD Instruction 1341.09, including the reimbursement limits and requirements set forth in that DoD policy. DoD Instruction 1341.09, “DoD Adoption Reimbursement Policy” (July 5, 2016) establishes policy, assigns responsibilities within DoD, and provides procedures for the reimbursement of qualifying adoption expenses incurred by members of the Military Services (including document submission requirements) pursuant to 10 U.S.C. 1052. That statute was enacted in 1991 and establishes the parameters of DoD’s adoption reimbursement program. VA amends part 17 by adding new section 17.390 to provide for reimbursement of qualifying adoption expenses to covered veterans, consistent with the policies and procedures established by DoD in implementing 10 U.S.C. 1052.

Paragraph (a) of new § 17.390 addresses general requirements for reimbursement. Except as noted, all of these requirements are terms of the adoption reimbursement program of DoD, as authorized in DoD Instruction 1341.09. A covered veteran may request reimbursement for qualifying adoption expenses incurred by the veteran in the adoption of a child under 18 years of age. To clarify the scope of adoptions that are contemplated, we state that reimbursement for qualifying adoption expenses includes expenses for an adoption by a married or single person, an infant adoption, an intercountry adoption, and an adoption of a child with special needs as defined in section 473(c) of the Social Security Act (42 U.S.C. 673(c)). A “special needs” child is generally assessed by considering whether the child has a specific factor or condition that prevents the child from being placed with adoptive parents without adoption assistance or medical assistance; or whether the child qualifies for disability supplemental security income benefits; and whether a reasonable, but unsuccessful, effort was made to place the child with adoptive parents without adoption assistance or medical assistance. Specific factors or conditions include the child’s ethnic background, age, membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental or emotional disabilities. In accordance with section 260 of Public Law 114-223, reimbursement for qualifying adoption expenses may be requested only for an adoption that became final after September 29, 2016, the date Public Law 114-223 was enacted. In addition, the application for reimbursement must be submitted no later than 2 years after the adoption is final or, in the case of adoption of a foreign child, no later than 2 years from the date a certificate of United States citizenship is issued. In the case of adoption of a foreign child, reimbursement

for qualifying adoption expenses may be requested only after United States citizenship has been granted to the adopted child. VA will not provide reimbursement for qualifying adoption expenses for any expense paid to or for a covered veteran under any other adoption benefits program administered by the Federal Government or under any such program administered by a State or local government.

In paragraph (b) of new § 17.390, based on the terms in DoD Instruction 1341.09, we address limitations on the amount of reimbursement for qualifying adoption expenses that a covered veteran, or two covered veterans who are spouses, may receive per adopted child, and the maximum amount that may be paid to such veterans in any calendar year. No more than \$2,000 may be reimbursed to a covered veteran, or to two covered veterans who are spouses of each other, for expenses incurred in the adoption of a child. In the case of two married covered veterans, only one spouse may claim reimbursement for any one adoption. No more than \$5,000 may be paid under this section to a covered veteran in any calendar year. In the case of two married covered veterans, the couple is limited to a maximum of \$5,000 per calendar year.

Relevant definitions are found in paragraph (c) of new § 17.390. The term “covered veteran” is defined as it is in section 260 of Public Law 114-223: a veteran with a service-connected disability that results in the inability of the veteran to procreate without the use of fertility treatment. The additional restrictions on the eligibility of covered veterans in § 17.380(a)(2) were required to implement the term “assisted reproductive technology” as defined in section 260(b)(3) of Public Law 114-223, and do not apply to the adoption reimbursement benefit.

“Qualifying adoption expenses” is defined based on the DoD Instruction to mean reasonable and necessary expenses that are directly related to the legal adoption of a child under 18 years of age, but only if such adoption is arranged by a qualified adoption agency. This definition includes several important elements. The expense must be “reasonable and necessary.” Based on the DoD Instruction, we define “reasonable and necessary” to include public and private agency fees, including adoption fees charged by an agency in a foreign country; placement fees, including fees charged to adoptive parents for counseling; and legal fees (including court costs). The term also includes medical expenses, including hospital expenses of the biological mother and medical care of the child to be adopted, as well as temporary foster care charges when payment of such charges is required before the adoptive child’s placement.

The adoption expenses must be directly related to the legal adoption of a child under the age of 18. Certain items are not reimbursable including expenses such as clothing, bedding, toys and books; travel expenses; and expenses incurred in connection with an adoption arranged in violation of Federal, State, or local law.

To be reimbursable as a qualifying adoption expense the adoption must be arranged by a qualified adoption agency. We define “qualified adoption agency” as it is defined in the DoD Instruction. The term is broadly defined to include: a State or local government agency which has responsibility under State or local law for child placement through adoption; a nonprofit, voluntary adoption agency which is authorized by State or local law to place children for adoption; and, any other source authorized by a State to provide adoption placement if the adoption is supervised by a court under State or local law. In addition the term “qualified adoption agency” includes a foreign government or

an agency authorized by a foreign government to place children for adoption, in any case in which the adopted child is entitled to automatic citizenship under section 320 of the Immigration and Nationality Act (8 U.S.C. 1431); or a certificate of citizenship has been issued for such child under section 322 of that Act (8 U.S.C. 1433).

Definitions in paragraph (c) are consistent with Public Law 114-223 section 260, the DoD policy referenced in that statute, and the statute authorizing DoD to operate its adoption reimbursement program (10 U.S.C. 1052).

Paragraph (d) addresses documentation that a covered veteran must provide VA to obtain reimbursement of qualifying adoption expenses. It mirrors DoD's submission requirements found in the DoD Instruction. The request for reimbursement must be submitted on a form prescribed for such purpose by VA.

Paragraph (e) provides that if documents submitted by a covered veteran in support of an application for reimbursement do not establish eligibility for reimbursement or justify claimed expenses, VA will retain the application and advise the covered veteran of additional documentation needed. All requested documentation must be submitted to VA within 90 calendar days of VA request. This is consistent with the DoD Instruction, and VA believes that it provides sufficient time to allow a covered veteran to obtain and submit additional documentation to support the claim for reimbursement.

Section 260 of Public Law 114-223 provides that VA is authorized to use appropriated funds available to VA for the Medical Services account in the Public Law for reimbursement of qualifying adoption expenses. Paragraph (f) states that authority to provide reimbursement for qualifying adoption expenses incurred by a covered

veteran in the adoption of a child under 18 years of age expires September 30, 2018, to reflect the limitations on the use of appropriated funds in the Medical Services account under section 260 of Public Law 114-223.

VA believes this rulemaking will benefit covered veterans. Whether IVF or other fertility treatments using ART are or are not a viable option, the covered veteran may elect to adopt. This rulemaking decreases the financial burden of making that choice.

VA is publishing this rulemaking as an interim final rule effective on the date of publication. We are providing a 60-day comment period to provide the public with an opportunity to submit comments and feedback.

Administrative Procedure Act

In accordance with 5 U.S.C. 553(b)(B) and (d)(3), the Secretary of Veterans Affairs has concluded that there is good cause to publish this rule as an interim final rule without prior opportunity for public comment and to publish this rule with an immediate effective date. The Secretary finds that it is impracticable and contrary to the public interest to delay this rule for the purpose of soliciting advance public comment or to have a delayed effective date. VA is authorized to reimburse qualified adoption expenses incurred by covered veterans only through the end of Fiscal Year 2018. Pursuing the standard administrative process of publishing a proposed rule, soliciting public comment, followed by publication of a final rule with an effective date 30 days after publication would result in a significant delay in implementation. VA believes that electing to follow that course of action would severely limit the agency's ability to utilize this authority as provided by Congress under Public Law 114-223. VA has determined

that it is in the public interest to publish this rulemaking as an interim final rule effective on the date of publication to ensure that covered veterans have access to this benefit for the greatest amount of time practicable. VA believes that publishing this rule as an interim final rule without prior opportunity for public comment and to publish this rule with an immediate effective date will give effect to congressional intent that covered veterans have access to this benefit in a timely fashion. Further, we note that Public Law 114-223 section 260(b)(4) establishes strict parameters on VA's administration of this benefit, requiring us to operate under the same terms as apply under the DoD's adoption reimbursement program, as authorized in DoD Instruction 1341.09, including the reimbursement limits and requirements set forth in such instruction. Given these restrictions, there is very little room for substantive changes to the rule based on public comment. For the above reasons, the Secretary issues this rule as an interim final rule with an immediate effective date. VA will consider and address comments that are received within 60 days of the date this interim final rule is published in the Federal Register.

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

This interim rule includes a provision constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3521) that requires approval by the Office of Management and Budget (OMB). VA has requested emergency clearance of information collection under this interim final rule. Accordingly, under 44 U.S.C. 3507(d), VA has submitted a copy of this rulemaking to OMB for review.

OMB assigns control numbers to collections of information it approves. VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Section 17.390 contains a collection of information under the Paperwork Reduction Act of 1995. If OMB does not approve the collection(s) of information as requested, VA will immediately remove the provision(s) containing a collection of information or take such other action as is directed by OMB.

Comments on the collection of information contained in this rule should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies sent by mail or hand delivery to the Director, Regulations Management (00REG), Department of Veterans Affairs, 810 Vermont Avenue, NW, Room 1068, Washington, DC 20420; fax to (202) 273-9026 (This is not a toll free no.); or through www.Regulations.gov. Comments should indicate that they are submitted in response to “RIN 2900-AQ01 Reimbursement of qualifying adoption expenses for certain veterans.”

OMB is required to make a decision concerning the collections of information contained in this rule between 30 and 60 days after publication of this document in the Federal Register.

VA considers comments by the public on proposed collections of information in—

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of VA, including whether the information will have practical utility;
- Evaluating the accuracy of VA's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collections of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The collections of information contained in regulatory section 38 CFR 17.390 are described immediately following this paragraph, under their respective titles.

Title: Reimbursement of qualifying adoption expenses for certain veterans.

Summary of collection of information: To receive reimbursement for qualifying adoption expenses a covered veteran must provide various types of documentation including a copy of the final adoption decree, certificate or court order granting the

adoption; proof of citizenship of the adopted child in the case of a foreign adoption; documentation that the adoption was handled by a qualified adoption agency; and documentation to substantiate reasonable and necessary expenses paid by the covered veteran. In addition, the covered veteran must submit a full English translation of any foreign language document, to include the translator's certification that he or she is competent to translate the foreign language to English and that his or her translation is complete and correct. Finally, the covered veteran may be asked to provide information to facilitate electronic transfer of funds to effectuate the reimbursement. This information collection is consistent with DoD requirements imposed on a service member seeking reimbursement of qualifying adoption expenses.

Description of the need for information and proposed use of information: The information is needed to determine eligibility for reimbursement of qualifying adoption expenses.

Description of likely respondents: Veterans with a service-connected disability that results in the inability of the veteran to procreate without the use of fertility treatment who incurred qualifying adoption expenses related to an adoption that became final after September 29, 2016.

Estimated number of respondents per month/year: 80 annually.

Estimated frequency of responses per month/year: one response total.

Estimated average burden per response: 6 hours.

Estimated total annual reporting and recordkeeping burden: 480 hours.

Regulatory Flexibility Act

The Secretary hereby certifies that this interim 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 interim 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 5 U.S.C. 603 and 604.

Executive Order 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,” requiring 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 12866. VA's impact analysis can be found as a supporting document at www.regulations.gov, usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's website at www.va.gov/orpm/, by following the link for "VA Regulations Published From FY 2004 Through Fiscal Year to Date."

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 one year. This interim final rule will have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.007, Blind Rehabilitation Centers; 64.008, Veterans

Domiciliary Care; 64.009, Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; 64.011, Veterans Dental Care; 64.012, Veterans Prescription Service; 64.013, Veterans Prosthetic Appliances; 64.014, Veterans State Domiciliary Care; 64.015, Veterans State Nursing Home Care; 64.018, Sharing Specialized Medical Resources; 64.019, Veterans Rehabilitation Alcohol and Drug Dependence; 64.022, Veterans Home Based Primary Care; and 64.024, VA Homeless Providers Grant and Per Diem Program.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, 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, Reporting and recordkeeping requirements, Travel and transportation expenses, Veterans.

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. Gina S. Farrisee, Deputy Chief of Staff, Department of Veterans Affairs, approved this document on August 25, 2017, for publication.

Dated: February 27, 2018

Jeffrey Martin
Impact Analyst
Office of Regulation Policy & Management
Office of the Secretary
Department of Veterans Affairs

For the reasons set out in the preamble, VA amends 38 CFR part 17 as follows:

PART 17 – MEDICAL

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

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

Section 17.38 is also issued under 38 U.S.C. 101, 501, 1701, 1705, 1710, 1710A, 1721, 1722, 1782, and 1786.

Section 17.169 is also issued under 38 U.S.C. 1712C.

Sections 17.380, 17.390 and 17.412 are also issued under sec. 260, Pub. L. 114-223, 130 Stat. 857.

Section 17.410 is also issued under 38 U.S.C. 1787.

Section 17.415 is also issued under 38 U.S.C. 7301, 7304, 7402, and 7403.

Sections 17.640 and 17.647 are also issued under sec. 4, Pub. L. 114-2, 129 Stat. 30.

Sections 17.641 through 17.646 are also issued under 38 U.S.C. 501(a) and sec. 4, Pub. L. 114-2, 129 Stat. 30.

Section 17.655 also issued under 38 U.S.C. 501(a), 7304, 7405.

2. Revise the undesignated center heading immediately preceding § 17.380 to read as follows:

In Vitro Fertilization and Reimbursement of Adoption Expenses

3. Add § 17.390 before the undesignated center heading “Hospital Care and Medical Services for Camp Lejeune Veterans and Families” to read as follows:

§ 17. 390 Reimbursement for qualifying adoption expenses incurred by certain veterans.

(a) General. A covered veteran may request reimbursement for qualifying adoption expenses incurred by the veteran in the adoption of a child under 18 years of age.

(1) An adoption for which expenses may be reimbursed under this section includes an adoption by a married or single person, an infant adoption, an intercountry adoption, and an adoption of a child with special needs (as defined in section 473(c) of the Social Security Act (42 U.S.C. 673(c))).

(2) Reimbursement for qualifying adoption expenses may be requested only for an adoption that became final after September 29, 2016, and must be requested:

(i) No later than 2 years after the adoption is final; or,
(ii) In the case of adoption of a foreign child, no later than 2 years from the date the certificate of United States citizenship is issued.

(3) In the case of adoption of a foreign child, reimbursement for qualifying adoption expenses may be requested only after United States citizenship has been granted to the adopted child.

(4) Reimbursement for qualifying adoption expenses may not be made under this section for any expense paid to or for a covered veteran under any other adoption benefits program administered by the Federal Government or under any such program administered by a State or local government.

(b) Limitations. (1) Reimbursement per adopted child. No more than \$2,000 may be reimbursed under this section to a covered veteran, or to two covered veterans who are spouses of each other, for expenses incurred in the adoption of a child. In the case of two married covered veterans, only one spouse may claim reimbursement for any one adoption.

(2) Maximum reimbursement in any calendar year. No more than \$5,000 may be paid under this section to a covered veteran in any calendar year. In the case of two married covered veterans, the couple is limited to a maximum of \$5,000 per calendar year.

(c) Definitions. For the purposes of this section:

(1) "Covered veteran" means a veteran with a service-connected disability that results in the inability of the veteran to procreate without the use of fertility treatment.

(2) "Qualifying adoption expenses" means reasonable and necessary expenses that are directly related to the legal adoption of a child under 18 years of age, but only if such adoption is arranged by a qualified adoption agency. Such term does not include any expense incurred:

(i) For items such as clothing, bedding, toys and books;

(ii) For travel; or

(iii) In connection with an adoption arranged in violation of Federal, State, or local law.

(3) "Reasonable and necessary expenses" include:

(i) Public and private agency fees, including adoption fees charged by an agency in a foreign country;

- (ii) Placement fees, including fees charged to adoptive parents for counseling;
- (iii) Legal fees (including court costs) or notary expenses;
- (iv) Medical expenses, including hospital expenses of the biological mother and medical care of the child to be adopted; and
- (v) Temporary foster care charges when payment of such charges is required before the adoptive child's placement.

- (4) "Qualified adoption agency" means any of the following:
 - (i) A State or local government agency which has responsibility under State or local law for child placement through adoption.
 - (ii) A nonprofit, voluntary adoption agency which is authorized by State or local law to place children for adoption.
 - (iii) Any other source authorized by a State to provide adoption placement if the adoption is supervised by a court under State or local law.
 - (iv) A foreign government or an agency authorized by a foreign government to place children for adoption, in any case in which:
 - (A) The adopted child is entitled to automatic citizenship under section 320 of the Immigration and Nationality Act (8 U.S.C. 1431); or
 - (B) A certificate of citizenship has been issued for such child under section 322 of that Act (8 U.S.C. 1433).
- (d) Applying for reimbursement of qualifying adoption expenses. An application for reimbursement must be submitted on a form prescribed for such purpose by VA. Information and documentation must include:

(1) A copy of the final adoption decree, certificate or court order granting the adoption. For U.S. adoptions, the court order must be signed by a judge unless either State law or local court rules authorize that the adoption order may be signed by a commissioner, magistrate or court referee. The covered veteran must submit a full English translation of any foreign language document, to include the translator's certification that he or she is competent to translate the foreign language to English and that his or her translation is complete and correct.

(2) For foreign adoptions, proof of U.S. citizenship of the child, including any of the following:

- (i) A copy of Certificate of Citizenship.
- (ii) A copy of a U.S. court order that recognizes the foreign adoption, or documents the re-adopting of the child in the United States.
- (iii) A letter from the United States Citizenship and Immigration Services, which states the status of the child's adoption.
- (iv) A copy of the child's U.S. passport (page with personal information only).

(3) For U.S. adoptions, documentation to show that the adoption was handled by a qualified adoption agency or other source authorized by a State or local law to provide adoption placement. Acceptable forms of proof that the adoption was handled by a qualified adoption agency include:

- (i) A copy of placement agreement from the adoption agency showing the agreement entered into between the member and the agency.
- (ii) A letter from the adoption agency stating that the agency arranged the adoption and that the agency is a licensed child placing agency in the United States.

(iii) Receipts for payment to the adoption agency, as well as proof, (e.g., a copy of the agency's web page), of the agency's status as a for-profit or non-profit licensed child placing agency.

(4) For foreign adoptions, documentation to show that the adoption was handled by a qualified adoption agency. In addition to the forms of acceptable proof that the adoption was handled by a qualified adoption agency listed in paragraph (d)(3) of this section, the documentation must also include:

- (i) A document that describes the mission of the foreign agency and its authority from the foreign government to place children for adoption; and
- (ii) A placement agreement from the adoption agency or letter from the adoption agency stating the specific services it provided for the adoption.

(5) Documentation to substantiate reasonable and necessary expenses paid by the covered veteran. Acceptable forms of documentation include receipts, cancelled checks, or a letter from the adoption agency showing the amount paid by the member. Receipts from a foreign entity should include the U.S. currency equivalency. Reconstruction of expense records is permissible when the original records are unavailable and the covered veteran submits a notarized affidavit stating the costs.

(6) Checking or savings account information to facilitate VA providing reimbursement to the covered veteran under this section.

(e) Failure to establish eligibility. If documents submitted by a covered veteran in support of an application for reimbursement do not establish eligibility for reimbursement or justify claimed expenses, VA will retain the application and advise the

covered veteran of additional documentation needed. All requested documentation must be submitted to VA within 90 calendar days of VA request.

(f) Authority. Authority to provide reimbursement for qualifying adoption expenses incurred by a covered veteran in the adoption of a child under 18 years of age expires September 30, 2018.

(Approval for information collection under this section has been requested from the Office of Management and Budget)

[FR Doc. 2018-04245 Filed: 3/2/2018 8:45 am; Publication Date: 3/5/2018]