distributors, DEA believes the entire controlled substances industry will benefit. Reverse distributors previously operating under MOUs are becoming fully recognized registrants under DEA rules. Thousands of other registrants who need to dispose of unneeded or outdated inventories are now able to turn to a fully registered group of distributors. Furthermore, by essentially codifying existing practices these benefits are being achieved with minimal need for change or for disruption to the affected industry.

Executive Order 12866

The Deputy Assistant Administrator further certifies that this rulemaking has been drafted in accordance with the principles of Executive Order 12866 Section 1(b). DEA has determined that this is a significant regulatory action. Therefore, this action has been reviewed by the Office of Management and Budget.

Executive Order 12988

The Deputy Assistant Administrator further certifies that this regulation meets the applicable standards set forth in Sections 3(a) and 3(b)(2) of Executive Order 12988.

Executive Order 13132

This rulemaking does not preempt or modify any provision of State law; nor does it impose enforcement responsibilities on any State; nor does it diminish the power of any State to enforce its own laws. Accordingly, this rulemaking does not have federalism implications warranting the application of Executive Order 13132.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $115,000,000 or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by Section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

The Interim Final Rule amending Parts 1300, 1301, 1304, 1305, and 1307 of Title 21, Code of Federal Regulations, which was published in the **Federal Register** on July 11, 2003 at 68 FR 41222, is hereby adopted as a Final Rule without change.

Dated: April 26, 2005.

William J. Walker,

Deputy Assistant Administrator, Office of Diversion Control.

[FR Doc. 05–8692 Filed 4–29–05; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AM11

Elimination of Copayment for Smoking Cessation Counseling

AGENCY: Department of Veterans Affairs.

ACTION: Interim final rule.

SUMMARY: This interim final rule amends the Department of Veterans Affairs (VA) medical regulations concerning copayments for inpatient hospital care and outpatient medical care. This rule designates smoking cessation counseling (individual and group sessions) as a service that is not subject to copayment requirements. The intended effect of this interim final rule is to increase participation in smoking cessation counseling by removing the copayment barrier.

DATES: Effective Date: May 2, 2005. Comments must be received on or before July 1, 2005.

ADDRESSES: Written comments may be submitted by: Mail or hand-delivery to Director, Regulations Management (00REG1), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; fax to (202) 273–9026; e-mail to *VAregulations@mail.va.gov;* or, through *http://www.Regulations.gov.* Comments should indicate that they are submitted in response to ''RIN *2900–AM11.*'' All comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 273–9515 for an appointment.

FOR FURTHER INFORMATION CONTACT: Eileen P. Downey, Program Analyst, Policy Development, Chief Business Office (16), (202) 254–0347 or Dr. Kim Hamlet-Berry, Director, Public Health National Prevention Program, Veterans Health Administration, 810 Vermont Avenue NW., Washington, DC 20420, (202) 273–8929. (These are not toll-free numbers).

SUPPLEMENTARY INFORMATION: Smoking is the leading preventable cause of morbidity and mortality in the United States, with a 43 percent higher prevalence of smoking among veterans than in the comparable general population, based on age- and gender-comparisons. Many veterans, particularly WWII and Korean War era veterans began smoking in the military as cigarettes were routinely provided as part of K-rations. Veterans who receive their health care in the VA represent the subgroups that have the highest prevalence of smoking, notably individuals from lower socioeconomic levels, substance abuse populations, and individuals with psychiatric disorders. The prevalence of smoking has continued to be very high among these groups despite substantial decreases in smoking in the general population.

The prevalence of smoking among VA's population is costly. In 2003, the Veterans Health Administration (VHA) conducted an analysis of the costs and benefits of the current copayment for smoking cessation. The analysis revealed that smoking-related illnesses account for up to 23.81 percent of total health care costs in VA. Treatment of smoking and prevention of smoking-related illnesses is likely to continue to be a public health priority for VA in the future. The 2003 Department of Defense Survey of health-related behaviors among active military personnel noted the first increase in rates of smoking since 1980, with rates at or approaching the prevalence of smoking in VA populations.

Smoking cessation is effective and has been cited in medical literature as the gold standard for cost-effectiveness among medical/preventive interventions, second only to routine immunizations of children. Significant medical literature suggests the copayments can serve as a barrier to accessing counseling for smoking cessation. Both the 2000 U.S. Public Health Service Guidelines on Smoking Cessation and the Centers for Disease Control and Prevention Task Force on Community Preventive Services strongly recommend reduction or elimination of out-of-pocket expenses for smoking cessation services.

Given the clinical challenges facing the VA population, the cost of smoking-related illness, the effectiveness of

smoking cessation counseling, and the current relatively low participation levels in VA smoking cessation services, VA seeks to reduce barriers to the utilization of evidence-based smoking cessation counseling services. This interim final rule will advance that goal by eliminating the copayment requirement for smoking cessation counseling.

Administrative Procedure Act

Pursuant to 5 U.S.C. 553, we find that we have good cause to dispense with advance notice and comment on this rule because of the urgent need for its implementation and the unlikelihood, given the fact that it grants an exemption from the copayment requirement, of encountering opposition from the public. The practice of smoking can lead to extremely debilitating disease and, possibly, death. In the time required to subject this rule to traditional notice and comment procedures, individuals who smoke incur a risk of contracting or exacerbating disease, or of dying, because they might be deterred by reason of the copayment requirement from participating in the program. Accordingly, we find that these significant health concerns render delay for notice and comment procedures impracticable and contrary to the public interest. Further, because this rule is beneficial to the public and is unlikely to generate adverse comments, we find that prior notice and opportunity to comment are unnecessary. Because of the need to reduce barriers to participating in combating this public health emergency, because the rule grants an exemption or relieves a restriction, and for the above reasons, we also find that it is unnecessary to delay the effective date of the rule by 30 days.

Regulatory Flexibility Act

The Secretary hereby certifies that this interim final rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The provisions of this interim final rule would not directly affect any small entities. Only individuals could be directly affected. Accordingly, pursuant to 5 U.S.C. 605(b), this interim final rule is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

Executive Order 12866

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

Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance numbers for the programs affected by this document are 64.005, 64.007, 64.008, 64.009, 64.010, 64.011, 64.012, 64.013, 64.014, 64.015, 64.016, 64.018, 64.019, 64.022, and 64.024.

Paperwork Reduction Act

This document does not contain new provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

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 developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any given year. This interim final rule will have no such effect on State, local, or tribal governments, or the private sector.

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.

Approved: December 17, 2004.

Anthony J. Principi,

Secretary of Veterans Affairs.

■ For the reasons set out in the preamble, 38 CFR Part 17 is amended as follows:

PART 17—MEDICAL

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

Authority: 38 U.S.C. 501, 1721, unless otherwise noted.

■ 2. Section 17.108 is amended by:
■ A. In paragraph (e) (11), removing ''and'' from the end of the paragraph.
■ B. Redesignating paragraph (e) (12) as (e) (13).
■ C. Adding new paragraph (e) (12).
The addition reads as follows:

§ 17.108 Copayments for inpatient hospital care and outpatient medical care.

* * * * *

(e) * * *

(12) Smoking cessation counseling (individual and group); and

* * * * *

[FR Doc. 05–8729 Filed 4–29–05; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 36

RIN 2900–AL54

Loan Guaranty: Hybrid Adjustable Rate Mortgages

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is affirming as final an amendment to its loan guaranty regulations implementing section 303 of the Veterans Benefits Act of 2002. The amendment incorporates into the regulations a new authority for hybrid adjustable rate mortgages. This allows VA to guarantee loans with interest rates that remain fixed for a period of not less than the first three years of the loan, after which the rate can be adjusted annually.

DATES: Effective Date: This rule is effective on May 2, 2005.

FOR FURTHER INFORMATION CONTACT: Mr. Robert D. Finneran, Assistant Director for Policy and Valuation (262), Loan Guaranty Service, Veterans Benefits Administration, Department of Veterans Affairs, Washington, DC 20420, (202) 273–7368.

SUPPLEMENTARY INFORMATION: On October 9, 2003, VA published in the **Federal Register** (68 FR 58293) proposed regulations to implement sections 303 and 307 of Public Law 107–330. Under this proposal, 38 CFR 36.4311 would be amended to provide authority for hybrid adjustable rate mortgages. Public Law 107–330 authorized VA to guarantee loans with interest rates that remain fixed for a period of not less than the first three years of the loan, after which the rate can be adjusted annually. Under the previous authority, the first adjustment on VA-guaranteed adjustable rate mortgage loans had to occur no sooner than 12 months nor later than 18 months from the date of the borrower's first mortgage payment. Please refer to the October 9, 2003, **Federal Register** for a complete discussion of this proposal.

Section 307 of Pub. L. 107–330 also increased the fee payable to VA by a person assuming a VA guaranteed loan from .50 percent to 1.00 percent of the loan amount, for a period beginning