

## Reimbursement of Adoption Expenses for Certain Veterans

### Request for Emergency Processing under 5 CFR 1320.13

#### A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary. Identify legal or administrative requirements that necessitate the collection of information.

*Note - To effectuate congressional intent and to make the adoption reimbursement benefit available to covered veterans as soon as practicable before expiration of funding authority, VA is requesting emergency processing of this information collection under 5 CFR 1320.13. A cover memo signed by Chief Consultant of Women's Health Service for the Veterans Health Administration accompanies this justification. VA is requesting OMB approval of this emergency request no later than September 28, 2018.*

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) states that VA may use appropriated funds available to VA for the Medical Services account to provide fertility counseling and treatment using assisted reproductive technology to a covered veteran or the spouse of a covered veteran, or adoption reimbursement to a covered veteran. "Covered veteran" means a veteran who has a service-connected disability that results in the inability of the veteran to procreate without the use of fertility treatment. The term "adoption reimbursement" is defined at P. Law 114-223 section 260(a)(4) to mean reimbursement for the adoption-related expenses for an adoption that is finalized after the date of the enactment of the Act under the same terms as apply under the adoption reimbursement program of the Department of Defense, as authorized in Department of Defense Instruction 1341.09, including the reimbursement limits and requirements set forth in such instruction. This law was enacted on September 29, 2016, and funding for the program was authorized through September 30, 2018. 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 is required under P. Law 114-223 section 260 to apply the requirements outlined in the DoD policy when administering this new benefit, including document submission requirements. Members of the armed services applying to DoD for adoption reimbursement must complete form DD 2675, which request personal information on the service member and the adopted child. The service member is required under the DoD policy to submit various types of documents as evidence to support the claim for reimbursement. This includes a copy of the final adoption decree, certificate or court order granting the adoption; proof of citizenship of the adopted child; documentation that the adoption was handled by a qualified adoption agency; and documentation to substantiate reasonable and necessary expenses paid by the service member. In addition, the service member 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. VA will develop a form paralleling DD 2675, and require any veteran requesting reimbursement of qualifying adoption expenses to submit the same types of evidence as required under the DoD policy, as mandated by P. Law 114-223 section 260. In addition VA will require evidence that the individual applying for adoption reimbursement is a "covered veteran," meaning a veteran who has a service-connected disability that result in the inability of the veteran to procreate without the use of fertility treatment. This is a prerequisite for eligibility for this benefit.

VA's authority to provide reimbursement of qualifying adoption expenses to the same cohort described in P. Law 114-223 section 260 was subsequently renewed and extended in nearly identical form in § 236 of Division J, Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2018, Public Law 115-141 (March 23, 2018). Under this most recent authority, VA's adoption expense reimbursement program remains subject to the funding period covered by P. Law 115-141 and the availability of appropriations.

**2. Indicate how, by whom, and for what purposes the information is to be used; indicate actual use the agency has made of the information received from current collection.**

The information will be used solely by VA as part of the process used to determine eligibility for reimbursement of qualifying adoption expenses.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.**

The VA form may be submitted in hardcopy using a form posted on a VA website. Documents submitted under this information collection may be provided in hardcopy or electronically. In the near future VA may provide an option to complete the form online.

**4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.**

Either VHA or VBA may have pre-existing documentation that the applicant is a veteran who has a service-connected disability that results in the inability of the veteran to procreate without the use of fertility treatment. In such case, VA will not require duplicate evidence. All other evidence that may be required for VA to determine whether the applicant eligibility for reimbursement for qualified adoption expenses is not already in possession of VA, and must be submitted by the applicant.

**5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.**

There will be no direct impact on small businesses or other small entities. The burden falls on the individual Veteran.

**6. Describe the consequences to Federal program or policy activities if the collection is not conducted or is conducted less frequently as well as any technical or legal obstacles to reducing burden.**

VA would be unable to comply with statutory requirements under P. Law 114-223 section 260 and P. Law 115-141 section 236 to administer the adoption reimbursement benefit under the same terms as apply under the adoption reimbursement program of the Department of Defense, as authorized in Department of Defense Instruction 1341.09, including the reimbursement limits and requirements set forth in such instruction. VA would be unable to determine eligibility for the benefit since it would be unable to collect and evaluate whether the applicant is a covered veteran and whether the applicant incurred qualifying adoption expenses.

**7. Explain any special circumstances that would cause an information collection to be conducted more often than quarterly or require respondents to prepare written responses to a collection of information in fewer than 30 days after receipt of it; submit more than an original and two copies of any document; retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three**

years; in connection with a statistical survey that is not designed to produce valid and reliable results that can be generalized to the universe of study and require the use of a statistical data classification that has not been reviewed and approved by OMB.

There are no such special circumstances.

**8. a. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the sponsor's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the sponsor in responses to these comments. Specifically address comments received on cost and hour burden.**

VA published an interim final rule on this subject on March 5, 2018. See 83 Federal Register (FR) 9208. The interim final rule was effective on the date of publication. The interim final rule included a section on PRA, which explained the proposed information collection, and requested public comments on the proposed collection. VA received no comments in response to the proposed information collection.

Funding for the adoption reimbursement benefit is approved only through the funding period covered by P. Law 115-141 and the availability of appropriations, and obtaining approval for this information collection through the normal PRA process (a PRA notice via proposed rulemaking and then OMB approval of the information collection when the final rulemaking is published) would mean that the benefit could not be implemented prior to expiration of the funding authority. To effectuate congressional intent and to make the adoption reimbursement benefit available to covered veterans as soon as practicable before expiration of funding authority, VA is requesting emergency processing of this information collection under 5 CFR 1320.13. VA is requesting OMB approval of the information collection through the emergency process to ensure that the information collection is approved for 180 days on an emergency basis. Once the 180 days is over, VA will submit an extension or revision, as appropriate, for a 3 year clearance.

**b. Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, clarity of instructions and recordkeeping, disclosure or reporting format, and on the data elements to be recorded, disclosed or reported. Explain any circumstances which preclude consultation every three years with representatives of those from whom information is to be obtained.**

Outside consultation was conducted with the public through publication of the interim final rule, which includes discussion of the information collection.

**9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

No payment or gift is provided to respondents.

**10. Describe any assurance of privacy, to the extent permitted by law, provided to respondents and the basis for the assurance in statute, regulation, or agency policy.**

Privacy of these records is ensured under the Privacy Act of 1974, applicable exceptions to disclosure under the Freedom of Information Act, HIPAA to the extent medical information is provided, and 38 CFR 1.460 through 1.580.

VA already collects this information and these types of records in two Systems of Records (SOR). The first is Veterans and Beneficiaries Identification and Records Location Subsystem (38VA21), 66 FR 30049. The second SOR is Compensation, Pension, Education, and Vocational Rehabilitation and Employment Records (58VA21/22/28), 77 FR 42594. These systems collect and maintain records relating to Veterans and their beneficiaries and contain identifying information, military information, VA claim numbers, and cross-references to

beneficiaries and their identifying information. Information is collected for the purpose of applying, and determining eligibility, for VA benefits.

**11. Provide additional justification for any questions of a sensitive nature (Information that, with a reasonable degree of medical certainty, is likely to have a serious adverse effect on an individual's mental or physical health if revealed to him or her), such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private; include specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.**

While an applicant may be required to submit personal identifying information on both the applicant and the adopted child there are no questions of a sensitive nature.

**12. Estimate of the hour burden of the collection of information:**

**a. The number of respondents, frequency of responses, annual hour burden, and explanation for each form is reported as follows:**

VA Form 10-10152	No. of respondents	x No. of responses	x No. of hours	=	Number of Hours
Reimbursement of Qualifying Adoption Expenses	80	1	6.0		480 hours

**b. If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB 83-I.**

Not applicable.

**c. Provide estimates of annual cost to respondents for the hour burdens for collections of information. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.**

Costs, if any are incurred, would be associated with the one-time document submission. There may be minimal costs for obtaining a copy of court or administrative orders if the applicant is not already in possession of said document. The applicant 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. That would apply only to foreign adoptions. Costs associated with translation of foreign documents vary depending on the type of document being translated. Charges for translation of foreign legal documents, based on a search of the internet, average \$90.00 per page. Translation of other governmental documents cost \$60.00 per page, and medical documents cost up to \$90.00 per page. This cost includes both certification and notary services.

Legally, respondents may not pay a person or business for assistance in completing the information collection and a person or business may not accept payment for assisting a respondent in completing the information collection. Therefore, there are no expected overhead costs for completing the information collection. VHA estimates the total cost to all respondents to be \$11,683.20 (480 burden hours x \$24.34 per hour).

May 2017 National Occupational Employment and Wage Estimates United States:  
[https://www.bls.gov/oes/current/oes\\_nat.htm](https://www.bls.gov/oes/current/oes_nat.htm)

**13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).**

- a. There is no capital, start-up, operation or maintenance costs.
- b. Cost estimates are not expected to vary widely. The only cost is that for the time of the respondent.
- c. There is no anticipated recordkeeping burden.

**14. Provide estimates of annual cost to the Federal Government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operation expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.**

Not applicable.

**15. Explain the reason for any burden hour changes or adjustments reported in items 13 or 14 of the OMB form 83-1.**

This is a new collection and all burden hours are considered a program increase.

**16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.**

VA does not intend to publish this data.

**17. If seeking approval to omit the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

Not applicable.

**18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB 83-I.**

There are no exceptions.