

Department of Veterans Affairs

Memorandum

Date: March 5, 2018

From: Director, Education Service, Veterans Benefit Administration

Subj: Public Law 115-48 (Section 109 - Restoration of Entitlement)

To: Dominic J. Mancini, Deputy Administrator, Office
of Information and Regulatory Affairs (OIRA)

Cc: Bridget Dooling, Desk Officer for Veterans Affairs,
Office of Management and Budget (OMB)

The Department of Veterans Affairs (VA) requests emergency clearance of an information collection under the Paperwork Reduction Act (PRA) pursuant to 5 CFR 1320.13. The title of this information collection is "Restoration of Entitlement for VA Education Benefits."

On August 16, 2017, the President signed into law the Harry W. Colmery Veterans Educational Assistance Act of 2017 ("Forever GI Bill"), Public Law 115-48, which amends Title 38, United States Code to make certain improvements in the laws administered by the Secretary of Veterans, and for other purposes. The bill expands the success our Veterans have had with the GI Bill providing opportunities that otherwise would not be possible. In particular, it restores benefits to Veterans who were impacted by school closures since 2015 and has special benefits for reservists, surviving dependents, and Purple Heart recipients.

Section 109 adds a new section, 3699, to chapter 36 of title 38, United States Code that allows for the restoration of entitlement to educational assistance and other relief for Veterans affected by school closure or disapproval. More specifically, no payment of educational assistance can be charged against an individual's entitlement to educational assistance under chapters 30, 32, 33, or 35 of title 38, or chapters 1606 or 1607 of title 10, or counted against the aggregate period for which an individual may receive educational assistance under two or more programs, if VA finds that the individual was unable to complete such course or program of study as a result of:

- the closure of an educational institution; or
- the disapproval of the course or a course that is a necessary part of that program by reason of a provision of law enacted after the date individual enrolls at such institution affecting the approval or disapproval of courses, or after the date the individual enrolls, VA prescribes or modifies regulations or policies that affect the approval or disapproval; and
- did not receive credit, or lost training time, toward completion of the program being pursued.

Not later than five business days after the date VA receives notice that an educational institution will close or is closed, VA will notify each individual who is enrolled in a course or program at the educational institution. VA will provide notice of the closure, date of the closure, and the effect the closure has on the individual's entitlement to educational assistance. The restoration of entitlement provision took effect 90 days after enactment (November 16, 2017) and applies to courses and programs of education discontinued after January 1, 2015.

The data collection is needed prior to the expiration of time periods established in 5 CFR part 1320. As discussed below, congress authorized VA to restoration of entitlement to educational assistance and other relief for Veterans affected by school closure or disapproval. This is an immediate restoration that is required for veterans to begin a new enrollment in a program of education, many are likely to seek to enrollment immediately and begin the new program as early as the spring of 2018 that began in January 2018. VA will be unable to provide this restoration of entitlement to covered veterans to the extent intended by congress in the absence of an emergency clearance given the length of time associated with the approval of a normal rulemaking-related information collection (proposed rule, public comment period, final rule publication with a delayed effective date). Following the typical time periods established in 5 CFR part 1320 would more likely than not result in VA being authorized to collect information and restore entitlement lost much later than required by the statute. Therefore, VA has elected to pursue emergency clearance under 5 CFR 1320.13.

This information collection is essential to the mission of the agency. VA's mission is to fulfill President Lincoln's promise "To care for him who shall have borne the battle, and for his widow, and his orphan" by serving and honoring the men and women who are America's veterans. To accomplish this mission VA must ensure that VA benefits authorized by law are made available to eligible veterans in a timely manner and, when such benefit is authorized, and so that the maximum number of eligible veterans have access to the benefit. In this case, in order to implement section 109 of Public Law 115-48, a new information collection is required to allow impacted beneficiaries the ability to apply for restoration of entitlement for VA education benefits used at a school that closed or had its approval to receive VA benefits withdrawn. Quick approval of this information collection is essential for VA to maximize the beneficial effect of this statutory authority.

Per 5 CFR 1320.13(a)(2), an executive agency may request emergency processing of an information collection when the agency cannot reasonably comply with the normal clearance procedures under that part because: public harm is reasonably likely to result if normal clearance procedures are followed; an unanticipated event has occurred; or the use of normal clearance procedures is reasonably likely to prevent or disrupt the collection of information or is reasonably likely to cause a statutory or court ordered deadline to be missed.

In this case, the use of normal clearance procedures is reasonably likely to prevent or disrupt the collection of information or is reasonably likely to cause a statutory or court ordered deadline to be missed. Public Law 115-48 requires that an impacted

beneficiary must be enrolled at least 120 days prior to the school closure or disapproval. Currently, VA has determined that the number of impacted students is roughly 14,045 from about 265 schools. The greatest numbers of impacted beneficiaries are those impacted by a school closure between January 1, 2015 and the date of enactment of this law.

VA requests emergency processing of this information collection no later than 5 days from receipt of this request from OMB. VA has taken all practicable steps to consult with interested agencies and members of the public in order to minimize the burden of the collection of information. VA is required to administer this benefit under the same terms as apply under the loan forgiveness program of Department of Education (DoE). VA has reviewed the policy and consulted with DoE to ensure consistency in the two programs, and to minimize the information collection to that required of veterans utilizing the DoE program. VA Form 22-0989 is being proposed to allow students to apply for restoration of entitlement for VA education benefits used at a school that closed or had its approval to receive VA benefits withdrawn. Education Service requests approval of this information collection in order to carry out the implementation of the law which requires VA to immediately accept applications to restore education benefits for school closures and disapprovals beginning after January 1, 2015. Approval of this information collection is needed immediately because VA needs to begin accepting and processing applications no later than 5 days from receipt of this request. Any further delay in the information collection will seriously threaten VA's ability to assess a veteran's applicability to receive restoration of entitlement.

Any questions may be addressed to Charmain Bogue, Deputy Director, Operations, Education Service, Veterans Benefit Administration, via phone at (202) 461-9768 or via email at charmain.english@va.gov. Thank you for your consideration of this matter.

Robert M. Worley II
Director, Education Service, Veterans Benefit Administration

Enclosures:
Paperwork Reduction Act Justification
DRAFT VA Form 22-0989