

PUBLIC SUBMISSION

As of: 8/31/26, 10:15 AM Received: August 28, 2026 Status: Pending_Post Tracking No. mtd-govt-ato0 Comments Due: August 28, 2026 Submission Type: Web
--

Docket: VA-2026-VACO-0001

Notices

Comment On: VA-2026-VACO-0001-0218

Agency Information Collection Activities; Proposals, Submissions, and Approvals: Copayment Exemption for Indian Veterans—Documentation of Indian or Urban Indian Status [FR Doc No: 2026-13041; OMB Control No. 2900-0920]

Document: VA-2026-VACO-0001-DRAFT-0225

Comment from Dario Pascual on VA-2026-VACO-0001-0218

Submitter Information

Name: Dario Pascual

Address:

Brea, CA, 92821-6167

Email: dpascual73@outlook.com

Phone: 858-342-9763

General Comment

TRIBAL & VETERAN ADVOCACY OPPOSITION

The Documentation Process as an Administrative Barrier, Violation of the PRA, and Breach of the Federal Trust Responsibility

The VHA's proposal requires eligible American Indian and Alaska Native (AI/AN) veterans to complete VA Form 10-334 and mail a physical copy of official tribal enrollment or citizenship cards, Certificates of Degree of Indian Blood (CDIB) issued by the Bureau of Indian Affairs (BIA), or other tribal letterheads to a centralized processing facility in Janesville, Wisconsin [11]. This manual, paper-based verification protocol is legally and operationally flawed.

1. Violation of the Paperwork Reduction Act (44 U.S.C. § 3501 et seq.)

Under the Paperwork Reduction Act (PRA), federal agencies are legally mandated to "minimize the burden of the collection of information on respondents" and maximize the "practical utility" of the information collected [8, 11]. The PRA specifically directs agencies to evaluate "whether the proposed collection of information is necessary for the proper performance of the functions of the agency" and encourages "the use of automated collection techniques or other forms of information technology" [8].

The VHA's proposal fails the PRA mandate on several counts:

Failure to Utilize Inter-Agency Electronic Databases: The federal government already maintains robust, electronic registries of individuals eligible for Indian health benefits through the Indian Health Service (IHS) and tribal membership data via the BIA. Rather than utilizing automated system-to-system verification or establishing interoperability between the VHA and IHS/BIA, the VA places the entire administrative burden of proof on the individual veteran [8].

Deficient Burden Analysis: The VHA estimates the annual burden of VA Form 10-334 to be 750 hours

across 3,000 respondents. This estimate grossly underestimates the true burden. It accounts only for the physical completion of the form but completely ignores the time, cost, and systemic barriers required for a veteran to obtain certified tribal registries, secure photocopying, buy postage, and physically mail documents.

2. Breach of the Federal Trust Responsibility

The federal trust responsibility is a binding legal obligation under which the United States has charged itself with moral obligations of the highest trust and care toward Native American tribes. Initiated via treaties and affirmed by the U.S. Supreme Court in landmark decisions such as *Cherokee Nation v. Georgia*, 30 U.S. 1 (1831) and *Seminole Nation v. United States*, 316 U.S. 286 (1942), this doctrine guarantees healthcare to Native Americans free of charge, as reinforced by the Snyder Act of 1921 (25 U.S.C. § 13).

By establishing a complex, multi-step physical paperwork hurdle (VA Form 10-334) to access a statutory copayment exemption, the VA is effectively conditioning a treaty-derived right on administrative compliance [9, 11]. Conditioning treaty-based healthcare benefits on a veteran's ability to successfully navigate federal paper bureaucracy constitutes an administrative rollback of the trust responsibility.

3. Systemic Bias and Disparate Impact on Vulnerable Veterans

The physical documentation requirement introduces systemic, disparate barriers that act as a form of institutional bias against the most vulnerable segments of the veteran population:

CONSTITUTIONAL & EQUAL PROTECTION OPPOSITION

Ancestry-Based Eligibility and the Boundaries of Political vs. Racial Classifications

An opposing legal framework from a constitutional perspective argues that the VA's proposed rule, as implemented through the broad definitions incorporated from 25 U.S.C. § 1603(13) and (28), is highly vulnerable to equal protection challenges under the Fifth Amendment's Due Process Clause.

Constitutional Recommendation: To insulate the copayment exemption from devastating equal protection challenges, the VA must narrow its information collection and benefits distribution strictly to enrolled citizens of federally recognized tribes, fully aligning the program with the political classification requirements of *Morton v. Mancari*.