



March 24, 2015

Director, Regulation Policy and Management (02REG)
U.S. Department of Veterans Affairs
810 Vermont Ave., NW
Room 1068
Washington, DC 20420

Re: RIN 2900-A073, Net Worth, Asset Transfers, and Income Exclusions for Needs-Based Benefits

To Whom It May Concern:

I write on behalf of the members of the Home Care Association of America (HCAOA), a national association representing the interests of home care providers across the nation. While many of our members provide private pay home care services, some of our members also provide home care services to veterans and individuals covered by the Veterans Administration and the Medicaid program. As such we feel compelled to comment on this proposed rule issued by the U.S. Department of Veterans Affairs.

We understand that the purpose of the proposed rule titled "RIN 2900-A073, Net Worth, Asset Transfers, and Income Exclusions for Needs-Based Benefits" is to preserve program integrity due to concerns that claimants who are not actually in need may qualify for needs-based benefits. We respect this effort and offer our comments as helpful guidance in this process.

First, of concern is a proposed change to § 3.278(d)(2) which would place a limit on the hourly payment rate that VA may deduct for in-home attendants. HCAOA supports the VA's effort to ensure high quality home care services are delivered to our nation's veterans. However, we feel that setting an arbitrary hourly rate for all home care providers, as proposed, fails to take into consideration current and future changes in staffing and other costs that go into providing high quality personal care services. It also fails to take into consideration geographic rate variations for these services as well as wage and hour laws that vary by state. Care provided to a veteran in the Midwest is not going to have the same costs as care provided on the East or West Coast of the U.S. We encourage the

agency provide a geographic adjustment to any possible rate and also consider indexing this rate to the Consumer Price Index so that over time, as costs change, the corresponding hourly rate will change as well to appropriately address veteran's needs.

Second, we are concerned that the proposed rule states that an "in-home attendant must be a health care provider for the expense to qualify as a medical expense and that only payments for assistance with ADLs or health care services are medical expenses." We would urge the agency to revisit this section as the majority of home care/personal care/custodial care services are provided by individuals who are not licensed health care providers as the services they are providing are not considered "skilled" services, such as would be provided by the nurse or physical therapist in the provision of "home health services." Home care services address the range of personal and companion care services a veterans may need to help them remain independent and in their home for as long as possible.

Finally, HCAOA urges the agency to consider adding language to the final rule that would ensure greater protection for veterans to ensure they are not open to potential liability through the employment of a registry model of home care. We urge the agency to require that all home care providers employ their home care workforce and thus train, bond, and withhold taxes for their employees. Some home care providers a veteran may encounter are simply staffing agencies that link a senior or disabled individual with an independent contractor who comes into the home without the training or insurance needed to provide real protections for the veteran. Requiring the home care provider to employ their workforce rather than utilizing independent contractors will eliminate the burden of potential liability from the minds of our nation's veterans. The U.S. Department of Labor is promoting appropriate classification of workers as employees and we encourage the U.S. Department of Veterans Affairs to follow their lead.

Thank you for the opportunity to provide these brief comments on the proposed rule. HCAOA stands ready to work with the agency to ensure the wellbeing of our nation's veterans and their families. Our goal is to ensure that seniors and individuals with disabilities can remain in their homes for as long as possible. This goal benefits the individual as well as our long-term care system.

Sincerely,

Phil Bongiorno
Executive Director