

SUPPLEMENTARY INFORMATION:

Title: Loan and Cash Surrender Values, VA Form 29-5772.

OMB Control Number: 2900-0096.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 29-5772 is used by the insured to request a loan or cash surrender value on his/her Government life insurance. VA uses the information to initiate the processing of the insured's request.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on December 31, 1997 at page 68357.

Affected Public: Individuals or households.

Estimated Annual Burden: 5,250 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 31,500.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395-4650. Please refer to "OMB Control No. 2900-0096" in any correspondence.

Dated: March 31, 1998.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.
[FR Doc. 98-15113 Filed 6-5-98; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0093]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and

Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATE: Comments must be submitted on or before July 8, 1998.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273-8015 or FAX (202) 273-5981. Please refer to "OMB Control No. 2900-0093."

SUPPLEMENTARY INFORMATION:

Title: Request for Organizational Data from Builder, VA Form Letter 26-312.

OMB Control Number: 2900-0093.

Type of Review: Extension of a currently approved collection.

Abstract: VA will refuse to appraise properties if it is determined that any party or parties involved, or financially interested in the construction of a unit, have participated in the construction of units sold to veterans which involved substantial deficiencies in construction or a failure or indicated inability to discharge contractual obligations to the veteran who contracted for the construction of the unit. The form letter is completed by builders and sponsors to identify individuals who have controlling, proprietary, or financial interest in their company. The information is used by VA to determine eligibility for participation in the Loan Guaranty Program.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on January 29, 1998 at page 4524.

Affected Public: Business or other for-profit.

Estimated Annual Burden: 4,000 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 8,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395-4650. Please refer to "OMB Control No. 2900-0093" in any correspondence.

Dated: March 31, 1998.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.
[FR Doc. 98-15114 Filed 6-5-98; 8:45 am]

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DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0525]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATE: Comments must be submitted on or before July 8, 1998.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273-8015 or FAX (202) 273-5981. Please refer to "OMB Control No. 2900-0525."

SUPPLEMENTARY INFORMATION:

Title: VA MATIC, VA Form 29-0165.

OMB Control Number: 2900-0525.

Type of Review: Extension of a currently approved collection.

Abstract: The form is used to change the account number and/or bank from which a VA MATIC deduction was previously authorized. The information is used by VBA to process the veteran's request.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on January 29, 1998 at page 4525.

Affected Public: Individuals or households.

Estimated Annual Burden: 1,250 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: On occasion.
Estimated Number of Respondents: 5,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395-4650. Please refer to "OMB Control No. 2900-0525" in any correspondence.

Dated: March 31, 1998.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 98-15115 Filed 6-5-98; 8:45 am]

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DEPARTMENT OF VETERANS AFFAIRS

Summary of Precedent Opinions of the General Counsel

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of legal interpretations issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. These interpretations are considered precedential by VA and will be followed by VA officials and employees in future claim matters. The summary is published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue.

FOR FURTHER INFORMATION CONTACT: Jane L. Lehman, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273-6558.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 2.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel.

VA publishes summaries of such opinions in order to provide the public

with notice of those interpretations of the General Counsel that must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

VAOPGCPREC 35-97

Question Presented

Does the failure of the Department of Veterans Affairs (VA) to render a timely decision regarding entitlement to service-connected burial benefits following a veteran's death in 1977 provide a basis for awarding dependency and indemnity compensation (DIC) retroactive to the date of death?

Held

The failure of the Department of Veterans Affairs to render a timely decision regarding entitlement to service-connected burial benefits following a veteran's death may not provide a basis for awarding retroactive payment of dependency and indemnity compensation (DIC) in a manner inconsistent with the express requirements of 38 U.S.C. § 5110, except insofar as the Secretary may order such benefits pursuant to his equitable-relief authority under 38 U.S.C. § 503(a). Pursuant to 38 U.S.C. § 5110(a) and (d)(1), an award of DIC may be made effective from the month of death only if the claimant filed an application for DIC within one year after the date of death, or filed an informal claim for DIC within such period, followed by a timely formal application for DIC which may, under 38 C.F.R. § 3.155(a), be deemed to have been filed within one year after the date of death.

Effective Date: December 9, 1997.

VAOPGCPREC 36-97

Questions Presented

a. Whether Diagnostic Code (DC) 5293, intervertebral disc syndrome (IDS), is based upon loss of range of motion, and therefore whether 38 C.F.R. §§ 4.40 and 4.45 are applicable in determining the extent of a veteran's disability due to IDS.

b. Whether 38 C.F.R. §§ 4.40 and 4.45 must be considered where a veteran receives less than the maximum schedular rating under DC 5293, but that rating corresponds to the maximum schedular rating under another diagnostic code pertaining to limitation of motion.

c. Whether 38 C.F.R. § 3.321(b) must be considered when a veteran receives

less than the maximum rating under DC 5293, irrespective of whether 38 C.F.R. §§ 4.40 and 4.45 must be applied in such a case.

Held

1. Diagnostic Code (DC) 5293, intervertebral disc syndrome (IDS), involves loss of range of motion because the nerve defects and resulting pain associated with injury to the sciatic nerve may cause limitation of motion of the cervical, thoracic, or lumbar vertebrae. Therefore, pursuant to *Johnson v. Brown*, Vet. App. 7 (1996), 38 C.F.R. §§ 4.40 and 4.45 must be considered when a disability is evaluated under this diagnostic code.

2. When a veteran has received less than the maximum evaluation under DC 5293 based upon symptomatology which includes limitation of motion, consideration must be given to the extent of the disability under 38 C.F.R. §§ 4.40 and 4.45, even though the rating corresponds to the maximum rating under another diagnostic code pertaining to limitation motion.

3. The BVA must address entitlement to an extraschedular rating under 38 CFR 3.321(b)(1) if there is evidence of "exceptional or unusual" circumstances indicating that the rating schedule, including 38 CFR 4.40, 4.45, and 4.71a, may be inadequate to compensate for the average impairment of earning capacity due to IDS, regardless of the fact that a veteran may have received the maximum schedular rating under a diagnostic code based upon limitation of motion.

Effective Date: December 12, 1997.

VAOPGCPREC 37-97

Question Presented

Are attorney fees payable in cases in which the decision of the Board of Veterans' Appeals was on the issue of whether a claimant had submitted new and material evidence sufficient to reopen a claim?

Held

In a case where BVA has denied reopening of a claim for service connection based on failure to submit new and material evidence and that determination is reversed by CVA and service connection is ultimately allowed, attorney fees may be paid. In a claim where BVA has determined that new and material evidence has been submitted and has remanded the claim to the AOJ, attorney fees may not be paid because a final decision within the meaning of 38 U.S.C. 5904(c)(1) is lacking.

Effective Date: December 16, 1997.