

September 5, 2023

COMMUNITY NURSING HOME PROGRAM

This VHA notice replaces VHA Notice 2022-04, Community Nursing Home Program, which expired on April 30, 2023.

1. PURPOSE

By direction of the Office of the Under Secretary for Health, this notice maintains existing interim policy while a new Community Nursing Home (CNH) directive is being prepared. The notice states nursing home eligibility generally (required and discretionary) and eligibility for the Community Nursing Home Program (CNHP) under the Department of Veterans Affairs (VA) MISSION Act of 2018, P.L.115-182. It also provides new quality expectations for Nursing Homes (NHs) participating in CNHP. The use of CNHs to provide respite care and copayments for CNH care are also addressed.

2. ELIGIBILITY FOR CNH CARE

To be eligible for CNH care, a Veteran must:

- a. Be eligible for nursing home care from VA generally (see paragraph 3 below) and
- b. Meet the requirements for CNH care (see paragraph 4 below).

3. ELIGIBILITY FOR CARE IN A NURSING HOME

a. **Mandatory Eligibility.** VA is required to furnish necessary nursing home care, when clinically indicated, to the following:

(1) Any Veteran in need of nursing home care for a service-connected (SC) disability.

(2) Any Veteran in need of nursing home care who has a single or combined SC disability rating of 70% or greater. This includes a Veteran with a single disability rated 60% but who has a total disability rating based on individual unemployability.

b. **Discretionary Eligibility (As Resources Allow).** VA may, in its discretion, authorize nursing home care for Veterans in need of this level of care who are not covered in paragraph 3.a. above. **NOTE:** Generally, if VA places a Veteran described in paragraph 3.b. in a CNH at VA expense, that placement may not exceed 6 months per episode. The VA medical facility Director may authorize an extension of no more than 45 days in the circumstances described in Title 38 Code of Federal Regulations (C.F.R.) § 17.60. Veterans who are terminally ill and have a life expectancy medically determined to be less than 6 months are not subject to the 45-day limitation.

4. ELIGIBILITY FOR COMMUNITY CARE

To receive CNH care, Veterans eligible for nursing home care under paragraph 3 must also satisfy one of the below eligibility criteria for the Veterans Community Care Program (VCCP) established by the VA MISSION Act of 2018 (38 C.F.R. § 17.4000 et seq.) (MISSION):

a. The Veteran needs a service that is not available at VA.

b. The Veteran resides in a U.S. State or territory without a full-service VA medical facility (Alaska, Hawaii, New Hampshire and the U.S. territories of Guam, American Samoa, Northern Mariana Islands and the U.S. Virgin Islands.)

c. The Veteran has temporary grandfathered eligibility under the expired Veterans Choice Program because the Veteran was:

(1) Eligible under the distance criteria under the Veterans Choice Program on the day before the VA MISSION Act was enacted into law (June 6, 2018),

(2) Lives in one of the five states with the lowest population (North Dakota, South Dakota, Montana, Alaska or Wyoming), or

(3) Continues to meet the distance criteria, received care between June 6, 2017, and June 6, 2018, and

(4) Required care before June 6, 2020.

d. The Veteran and their referring clinician agree that it is in the Veteran's best medical interest to be referred to a community provider.

e. The Veteran needs care from a VA medical service line that VA determines is not providing care that complies with VA's quality standards.

NOTE: *The designated access standards under MISSION eligibility described in the above MISSION regulations do not apply to community nursing home placements. VA medical service lines that are designated as underperforming to give effect to this particular eligibility will be announced in Federal Register Notices as applicable. The Veterans Health Administration (VHA) cannot utilize this eligibility criterion unless and until such Federal Register Notices announce underperforming VA medical service lines.*

5. INPATIENT RESPITE CARE

Needed inpatient respite care must be provided as part of the medical benefits package, 38 C.F.R. § 17.38. This care may be provided in a VA Community Living Center (CLC) or in a CNH, if VCCP eligibility is met.

6. EXTENDED CARE COPAYMENTS

Veterans receiving care in CNHs may be responsible for extended care copayments. See 38 C.F.R. § 17.111(b)(1) or Community Care National Portal Chapter 7.5, Copayments for Extended Care Services, for VA's guidance on extended care copayments.

Guidance related to VA copayments can be found on the Office of Community Care's Knowledge Management web portal at:

https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en%20US/portal/55440000001031/content/554400000069139/Chapter%206.%20Applications%20and%20Copayments%20for%20Extended%20Care%20Services.

NOTE: This is an internal VA website that is not available to the public.

Procedural guidance can be found on the Member Service's Knowledge Management web portal at:

https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en%20-US/portal/55440000001046/content/554400000048948/Long-Term-CarePrograms?query=%22long%20term%20care%22. **NOTE:** This is an internal VA website that is not available to the public.

7. QUALITY EXPECTATIONS FOR COMMUNITY NURSING HOMES

a. To participate in VA's CNHP through local contracts or Veterans Care Agreements, NHs are expected to have either 1) a three-star overall rating, or 2) a two-star overall rating with a four star or greater quality measures score on the Centers for Medicare and Medicaid (CMS) Nursing Home Compare website (<https://www.medicare.gov/nursinghomecompare/search.html>).

b. NHs with lower scores may participate in the CNH program only when specifically approved by the Assistant Under Secretary for Health for Operations or designee.

c. All NHs in the CNH Program must be certified by CMS under Title XVIII (Medicare) or Title XIX (Medicaid), or have received special approval from the Office of Geriatrics and Extended Care (GEC) Office. NHs are responsible to the State of jurisdiction and CMS for the care provided. VA does not regulate the care or inspect CNHs. VA acts as an informed purchaser of care in order to purchase quality services for Veterans and enhance the Veterans' experience in the home.

8. COORDINATION

When a VA medical facility makes a CNH placement outside its primary service area or catchment area, the referring VA medical facility will pay for care for the first 90 days, unless arranged specifically otherwise in advance with the receiving VA medical facility. If the need for CNH care continues beyond 90 days, the receiving VA medical facility is responsible for payment.

September 5, 2023

VHA NOTICE 2023-07

9. RESPONSIBLE OFFICE: The Office of Geriatrics and Extended Care (12GEC) is responsible for the content of this VHA notice. Questions may be addressed to 202-461-6750 or email VHA Purchased LTSS Support Group at VHAPurchasedLTSSSupportGroup@va.gov.

10. This VHA notice will expire and be archived on September 5, 2024.

**BY DIRECTION OF THE OFFICE OF THE
UNDER SECRETARY FOR HEALTH:**

/s/ M. Christopher Saslo
DNS, ARNP-BC, FAANP
Assistant Under Secretary for Health
for Patient Care Services/CNO

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