COPAYMENTS FOR EXTENDED CARE SERVICES PROVIDED TO VETERANS BY DEPARTMENT OF VETERANS AFFAIRS (VA)

- **1. PURPOSE:** This Veterans Health Administration (VHA) Directive defines the VA policy for charging copayments for extended care services.
- **2. BACKGROUND:** Public Law 106-117, The Veterans Millennium Health Care and Benefits Act, gave the Secretary of Veterans Affairs, the authority to establish extended care copayment amounts and a maximum monthly copayment cap. The final regulation implementing the changes for extended care copayment became effective June 17, 2002. The final regulation (Title 38 Code of Federal Regulations (CFR) § 17.111) states, in part, that:

NOTE: As a condition of receiving extended care services, any non-exempt veteran must agree to pay VA copayments. These copayments also apply to extended care provided to veterans through community resources that are paid for by VA through contractual arrangements.

3. POLICY: It is VHA policy that Long-term Care (LTC) copayment tests must be completed on all veterans in receipt of extended care services.

4. ACTION:

- a. Medical Center Director. The medical center Director is responsible for ensuring that:
- (1) A LTC copayment test is completed in Veterans Information Systems Technology Architecture (VistA) for each veteran requesting extended care services.
- (2) A VA Form 10-10EC, Application for Extended Care Services, is obtained for each non-exempt veteran.
- (3) The social worker, case manager, or designee enters the LTC copayment test in VistA. **NOTE:** Instructions for processing applications for Extended Care Services are provided in Attachment B.
- (4) For the purpose of counting the number of days for which a veteran is obligated to make a copayment, each day that outpatient (non-institutional) extended care services are provided is to be counted; and each full day and partial day for each inpatient (institutional) stay, except for the day of discharge, is to be counted.
- (5) A veteran's "available resources" for use in paying extended care copayments is determined by a calculation using the financial data from VA Form 10-10EC. The calculated monthly copayment amount varies from veteran to veteran and can range from \$0 to the

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maximum copayment amount of \$97 per day (see Att. A). **NOTE:** Definitions and associated identifiers of extended care services for which copayments will be assessed are described in 38 CFR §17.111(c).

- b. The following veterans are <u>exempt</u> from copayment requirements for extended care services:
- (1) Veterans receiving extended care services on or before November 30, 1999, and who have been continuously receiving these services since that date.
 - (2) Veterans with a compensable service-connected disability.
- (3) Veterans with annual income (determined under Title 38 United States Code (U.S.C.) 1503) less than the single veteran non-service connected disability pension income amount in effect under 38 U.S.C. 1521(b).
 - c. The following services are not subject to the copayment requirements for extended care:
 - (1) Care for a non-compensable zero percent service-connected disability.
- (2) Care authorized veterans under 38 U.S.C. 1710(e) for veterans solely seeking care for a disorder associated with exposure to a toxic substance or radiation, for a disorder associated with service in the Southwest Asia theater of operations during the Gulf War, or for any illness associated with service in combat in a war after the Gulf War or during a period of hostility after November 11, 1998, as provided and limited in 38 U.S.C. 1710(e).
- (3) Care or treatment of veterans with military sexual trauma as authorized under 38 U.S.C. 1720D.
- (4) Care or services authorized under 38 U.S.C. 1720E for certain veterans regarding cancer of the head or neck.
 - (5) Hospice care provided in any setting.

d. The following sets forth the extended care services provided by VA and the corresponding copayment amount per day:

(1) Institutional Nursing Home Care	\$97
(2) Institutional Domiciliary Care	\$ 5
(3) Institutional Geriatric Evaluation	\$97
(4) Institutional Respite Care	\$97
(5) Non-institutional Respite Care	\$15
(6) Non-institutional Adult Day Health Care	\$15
(7) Non-institutional Geriatric Evaluation	\$15

NOTE: Since care provided by State Veteran Homes is not provided by VA; it is not subject to these copayments.

- e. The <u>maximum</u> amount for institutional nursing home, institutional geriatric evaluation, or institutional respite care that a veteran could be charged in any month is \$97 per day times the number of days in the month. The <u>maximum</u> amount for non-institutional (outpatient) extended care services a veteran could be charged in any month is \$15 per day times the number of days in the month. The <u>maximum</u> amount for domiciliary care a veteran could be charged in any month is \$5 per day times the number of days in the month. *NOTE:* An explanation of the monthly copayment calculation and examples are provided in Attachment B.
- f. A non-exempt veteran has no obligation to pay a copayment for the first 21 days of extended care services that VA provided the veteran in any 12-month period (the 12-month period begins on the date that VA first provided extended care services to the veteran).
 - b. **Non-exempt Veteran.** Each non-exempt veteran is responsible for:
 - (1) Completing a VA Form 10-10EC, when:
 - (a) Initially requesting an episode of extended care service.
- (b) There is a break in extended care services for 30 days or more, then a new request for extended care services must be submitted.
- (c) The time for the annual updating of VA Form 10-10EZ, Application for Health Benefits, occurs.

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(d) When there are changes that might change the copayment obligations (i.e., changes regarding martial status, fixed assets, liquid assets, expenses, income or whether the veteran has a spouse or dependents residing in the community).

NOTE: The veteran must report any change(s) that might affect the copayment obligation (i.e., changes in fixed assets, liquid assets, expenses, or income, or whether the veteran has a spouse or dependent residing in the community), to Social Work at a VA medical facility within 10 days of the change.

5. REFERENCES

- a. Public Law 106-117.
- b. Title 38 CFR 17.111.
- **6. FOLLOW-UP RESPONSBILITY:** The Chief Business Office (16) is responsible for the contents of this directive. Questions may be referred to 202-461-1600.
- **7. RECISSIONS:** VHA Directive 2002-065, dated October 21, 2002, is rescinded. This VHA Directive expires November 30, 2013.

Michael J. Kussman, MD, MS, MACP Under Secretary for Health

Attachments

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ATTACHMENT A

(n) Black lung payments,

(o) Tort settlement payments,

EXTENDED CARE COPAYMENT CALCULATIONS

1. The non-exempt veteran is obligated to pay a monthly extended care copayment amount only
to the extent the veteran and the veteran's spouse has available resources. Available resources
means the sum of the value of the liquid assets, fixed assets, and income of the veteran and the
veteran's spouse minus the sum of the veteran allowance (which may include deductible
expenses) and the spousal allowance.

means the sum of the value of the liquid assets, fixed assets, and income of the veteran and the veteran's spouse minus the sum of the veteran allowance (which may include deductible expenses) and the spousal allowance.
2. For the purposes of determining available resources:
a. Income means current income.
(1) It includes, but is not limited to:
(a) Wages and income from a business (minus business expenses),
(b) Bonuses,
(c) Tips,
(d) Severance pay,
(e) Accrued benefits,
(f) Cash gifts,
(g) Inheritance amounts,
(h) Interest income,
(I) Standard dividend income from non-tax deferred annuities,
(j) Retirement income,
(k) Pension income,
(l) Unemployment payments,
(m) Worker's compensation payments,

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- (p) Social security payments,
- (q) Court-mandated payments,
- (r) Payments from the Department of Veterans Affairs (VA) or any other Federal programs, and
 - (s) Any other income.
- (2) The amount of current income must be stated in frequency of receipt, e.g., per week, per month. **NOTE:** The electronic version of VA Form 10-10EC, Application for Extended Care Services, within the Veterans Information Systems Technology Architecture (VistA) represents an annual income; therefore, when entering monthly income a user must enter the monthly income amount followed by an asterisk (*) (e.g., \$800*).
 - b. Expenses means basic subsistence expenses, including current expenses for the following:
 - (1) Rent or mortgage for primary residence;
 - (2) Vehicle payment for one vehicle;
 - (3) Food for veteran, veteran's spouse, and veteran's dependents;
 - (4) Education for veteran, veteran's spouse, and veteran's dependents;
- (5) Court-ordered payments of veteran or veteran's spouse (e.g., alimony, child-support); and
- (6) The average monthly expenses during the 12 months prior to application or completion of the 10-10EC for the following:
 - (a) Utilities and insurance for the primary residence;
 - (b) Out-of-pocket medical care costs not otherwise covered by health insurance;
- (c) Health insurance premiums for the veteran, veteran's spouse and veteran's dependents; and
 - (d) Taxes paid on income and personal property.
- c. **Fixed** assets means real property and other non-liquid assets. The value of the fixed assets means fixed assets minus any outstanding lien or mortgage. This does not include:
 - (1) Burial plots.
 - (2) The residence, if the residence is:

- (a) The primary residence of the veteran and the veteran is receiving only non-institutional extended care service; or
- (b) The primary residence of the veteran's spouse or the veteran's dependents (if the veteran does not have a spouse), if the veteran is receiving institutional extended care services.
 - (3) The vehicle, if the vehicle is:
- (a) The vehicle of the veteran and the veteran is receiving only noninstitutional extended care services; or
- (b) The vehicle of the veteran's spouse or the veterans' dependents (if the veteran does not ha

a'	ve a spouse) if the veteran is receiving institutional extended care services.
	d. Liquid assets means:
	(1) Cash;
	(2) Stocks;
	(3) Dividends received from IRA, 401Ks and other tax-deferred annuities;
	(4) Bonds;
	(5) Mutual funds;
	(6) Retirement accounts (e.g., IRA, 401Ks, annuities);
	(7) Art;
	(8) Rare coins;
	(9) Stamp collection;
	(10) Collectibles of the veteran, spouse, and dependents; and

e. Spousal allowance is an allowance of \$20 per day that is included only if the spouse

veteran's spouse or dependents are living in the community.

resides in the community (not institutionalized).

(11) Household and personal items (e.g., furniture, clothing and jewelry) except when the

(1) Spousal Resource Protection amount means the value of liquid assets but not to exceed \$89,280 if the spouse is residing in the community (not institutionalized).

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- (2) The veteran's allowance is an allowance of \$20 per day. Expenses are included if the veteran:
- (a) Has been receiving nursing home care, institutional respite care, institutional geriatric evaluation, or institutional domiciliary care for 180 days or less;
- (b) Is receiving only non-institutional respite, non-institutional geriatric evaluation, or adult day health care;
 - (c) Has a spouse or dependent residing in the community (not institutionalized).
- 3. The value of the liquid and fixed assets is included in the available resources if the veteran has been receiving inpatient (institutional) extended care services for 181 days or more.
- 4. The following examples represent potential monthly copayment obligations for both single and married veterans. For the purposes of the examples, the type of care the veteran is receiving is indicated. *NOTE:* The monthly copayment amount cannot be more than the veteran's available resources.

a. <u>Single veteran with no spouse or dependent residing in the community (non-institutionalized)</u>

(1) Financial information provided on the VA Form 10-10EC:

Monthly Income \$3000 Monthly Expenses \$1200

The veteran's allowance is variable and equals \$20 times the number of days in the month (\$620 for 31 days; \$600 for 30 days) and may include expenses.

Value of Fixed Assets (includes value of Primary Residence less any mortgage) = $\frac{$100,000}{}$

Liquid Assets \$2,000

NOTE: A veteran has no copayment obligation for the first 21 days of extended care services in any 12-month period from the date the extended care services began.

(2) Veteran is admitted on 05/01/07 (a 31-day month) to a nursing home. The veteran continues to receive nursing home care through the end of the month.

Veteran's Income –Veteran's Allowance (daily allowance + expenses) = Available Resources

\$3000 - (\$620 + \$1200) = \$1180 (veteran's available resources for May)

The veteran is copayment exempt for the <u>first 21 days</u> of extended care services in any 12-month period; therefore, the veteran will be charged \$97 per day from May 22 to May 31 for a total of \$970.00, because this is less than the \$1180.

(3) The veteran remains institutionalized through the next month of June (30 days in the month).

Veteran's Income -Veteran's Allowance (daily allowance + expenses) = Available Resources

\$3000 - (\$600 + \$1200) = \$1200 (veteran's available resources for June)

The veteran will be charged \$1200 for the month of June.

(4) The veteran continues to receive nursing home care for 181 consecutive days or more (10/27/07 is the 181st day). As before, the monthly copayment amount is the <u>lesser</u> of the maximum extended care copayment of \$97 per day times the number of days in the month <u>or</u> the veteran's available resources.

Veteran's Income + Fixed Assets + Liquid Assets - Veteran's Allowance (not including expenses) = Available Resources

\$3000 + \$100,000 + \$2000 - \$620 = \$104,380 (veteran's available resources)

The veteran will be charged \$3007 (\$97 per day x 31 days) for the month of October. **NOTE:** Since billing is calculated monthly and the 181st day occurred in October, the assets were included and the expenses were not included for the month.

b. <u>Single Veteran With No Spouse or Dependent.</u> The single veteran with no spouse or dependent is receiving adult day health care during the month of December.

Veteran's Income -Veteran's Allowance (daily allowance + expenses) = Available Resources

\$3000 - (\$620 + \$1200) = \$1180 (veteran's available resources)

The veteran only received adult day health care twelve times during the month. Although the available resources are \$1180, the veteran can only be charged \$15.00 per visit. The <u>maximum</u> monthly copayment for December would be \$465. However, the veteran will only be charged \$180 (\$15x12 visits) for December.

c. <u>Veteran with a Spouse or Dependent Residing in the Community (not living in a Nursing Home or Other Institutional Setting)</u>

(1) Financial information provided on VA Form 10-10EC:

 $\begin{array}{ll} \text{Monthly Income veteran} & \underline{\$3000} \\ \text{Monthly Income spouse} & \underline{\$1300} \\ \text{Monthly Expenses} & \underline{\$1500} \end{array}$

Veteran's and Spousal Allowance is Variable - \$20 times number of days in the month for the veterans allowance (\$620 for 31 days; \$600 for 30 days) plus \$20 times the number of days in the month for the spousal allowance (\$620 for 31 days; \$600 for 30 days).

Fixed Assets (excludes value of primary residence) \$20,000 Liquid Assets \$2,000

NOTE: A veteran has no co-pay obligation for the first 21 days of extended care services in any 12-month period from the date the extended care services began.

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(2) The veteran is admitted on 05/01/07 (a 31-day month) to a nursing home. The veteran continues to receive extended care services through the end of the month.

Veteran and Spousal Income – Veteran Allowance (daily allowance + expenses) and Spousal Allowance = Available Resources

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\$3000 + \$1300 - (\$620 + \$1500) - \$620 = \$1560
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The veteran is copayment exempt for the first 21 days of extended care services in any 12-month period; therefore, the veteran is charged \$97 per day from May 22 to May 31 for a total of \$970 because it is less than \$1560.

(3) The veteran remains in the nursing home through the next month of June (30 days in the month).

Veteran and Spousal Income – Veteran Allowance (daily allowance + expenses) and Spousal Allowance = Available Resources

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$3000 + $1300 - ($600 + $1500) - $600 = $1600.
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The veteran will be charged \$1600 for the month of June.

(4) The veteran continues to receive nursing home care for 181 consecutive days or more (10/27/07 is the 181st day). As before, the monthly copayment is the <u>lesser</u> of the maximum extended care copayment of \$97 per day times the number of days in the month <u>or</u> the veteran's available resources.

Veteran and Spousal Income + Fixed Assets (<u>excluding</u> value of primary residence) + Liquid Assets - Veteran Allowance (daily allowance + expenses) and Spousal Allowance = Available Resources

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3000 + 1300 + 2000 + 2000 - (620 + 1500) - 6200 = 23,560 (veteran's available resources)
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Effective August 2, 2004 the computation for spouse protection was implemented. In considering liquid assets for the spouse, any patient who has liquid assets would need to include this on the 10-10EC. Under Liquid Assets (Veteran and Spouse) if veteran and spouse have less than \$89,280, \$-0- assets should be reported. For those that have more than \$89,280 report any amount over that.

Example: Spouse has assets of \$100,000 Spouse Protection \$89,280 Amount that needs to be reported on 10-10EC \$10,720

The veteran will be charged \$3007 (\$97 per day x 31 days) for the month of October. **NOTE:** Since billing is calculated monthly and the 181st day occurred in October, the assets were included for the month. The value of the primary residence was excluded because the spouse or dependent was residing in the community.

d. <u>Veteran with a Spouse or Dependent Residing in the Community.</u> The veteran with a spouse or dependent residing in the community is receiving outpatient (non-institutional) extended care services during the month of December.

Veteran and Spousal Income – Veteran allowance (daily allowance + expenses) and Spousal Allowance = Available Resources

\$3000 + \$1300 - (\$620 + \$1500) - \$620 = \$1560

The veteran only received outpatient extended care services 12 times during the month. Although the available resources are \$1560, the veteran can only be charged the maximum outpatient rate of \$15.00 per visit. The maximum monthly outpatient (non-institutional) copayment amount for December would be \$465. However, the veteran will only be charged \$180 (\$15 x12 visits) for December.

ATTACHMENT B

INSTRUCTIONS FOR PROCESSING APPLICATION FOR EXTENDED CARE SERVICES

- 1. <u>Referral for Extended Care Services.</u> Once a determination is made that a veteran requires extended care services, a referral is sent to the social worker, case manager, or designated geriatrics and extended care staff. The staff involved in the extended care placement and case management needs to be familiar with the State and local requirements of extended care services available in the community, as well as extended care services available in the Department of Veterans Affairs (VA), in order to provide options that may be available to the veteran.
- 2. Extended Care Copayment Exemption Determination. The social worker, case manager, or designee must access the long-term care (LTC) copayment test in the Veterans Information Systems Technology Architecture (VistA), enter the veteran's identifying information (name or initial and last four Social Security Numbers (SSNs) to determine the veteran's exemption or non-exemption status for extended care copayments. This assists the social worker, case manager, or designee in determining the most appropriate extended care services options available to the veteran.
- a. If the response in VistA reflects that the veteran is exempt from extended care copayments based on eligibility or income data from the means test, the social worker, case manager, or designee notifies the social worker or case manager involved in placement of the veteran of the exemption status. This exemption status is stored in VistA.
- b. If the response in VistA reflects that the veteran does not have means test information on file, the social worker, case manager, or designee notifies the social worker or case manager involved in placement of the veteran to send the veteran or family representative to Health Administration Service (HAS), Business Office or the enrollment coordinator for completion of the means test or LTC copayment exemption test. The LTC copayment exemption test is the same income screening process for medication copayments. The intake or registration staff collects the information for the LTC copayment exemption test by having the veteran complete and sign the financial section of VA Form 10-10EZR, Health Benefits Renewal. *NOTE:* A determination of exemption or non-exemption status cannot be made until the financial section of VA Form 10-10EZR is completed.
- c. If the response in VistA reflects that the veteran is non-exempt from extended care copayments, the designee notifies the social worker or case manager involved in placement of the veteran that a VA Form 10-10EC, Application for Extended Care Services, needs to be completed.
- **3.** <u>VA Form 10-10EC</u>, <u>Application for Extended Care Services</u>. All non-exempt veterans applying for extended care services must complete VA Form 10-10EC. The social worker or case manager involved in the placement of the veteran needs to contact the veteran or family representative and explain the need for this information. In addition, the social worker or case manager needs to provide guidance on gathering information for completion of the form.

- a. If the veteran or family representative does not wish to provide the necessary financial information to determine the calculated monthly extended care copayment obligation, the social worker or case manager must have the veteran or family representative sign and date the statement on VA Form 10-10EC indicating that the veteran or family representative understands that the veteran will be assessed the maximum copayment for extended care services received and that the veteran agrees to pay the applicable VA copayment as required by law. The signed VA Form is forwarded to medical records for filing.
- b. The social worker, case manager, or designee must enter this information into the "Add LTC Copay Test" menu option in VistA.
- c. Once the veteran or family representative returns VA Form 10-10EC, the information must be entered into the LTC Copay Test menu option in VistA. This data entry may be performed by the intake or registration staff, or designee.
- d. The intake or registration staff receiving the completed VA Form 10-10EC must access the Registration Menu option in VistA to ensure that demographic and insurance information on the current VA Form 10-10EC is the same as the most recent registration data stored in VistA.
- e. If the demographic and insurance information on VA Form 10-10EC is different from the registration information, or data is missing, the intake or registration staff must update the registration fields with the current data.
- f. If the demographic and insurance information on VA Form 10-10EC is the same, the intake or registration staff accesses the "Add LTC copay test" menu option in VistA and enters the spousal and financial information from VA Form 10-10EC.
- g. Once data entry is complete, the intake or registration staff prints the electronic version of VA Form 10-10EC and the Calculated LTC Copayment Report from VistA.
- h. The intake or registration staff forwards the completed electronic version of VA Form 10-10EC and Calculated LTC Copayment Report to the social worker or case manager involved with the case management and placement of the veteran.

4. Counseling and Placement into Extended Care

- a. The social worker or case manager must:
- (1) Review the printed VA Form 10-10EC and the Calculated LTC Copayment Report with the veteran or family representative.
- (2) Counsel the veteran or family representative to the potential copayment amounts for the veteran's extended care services.
- (3) Review the projected copayment and spend-down calculation of the assets with the veteran or family as a part of case management.

- (4) Offer information regarding options and services that might be available within VA and the community.
- b. If all the information on the VA Form 10-10EC is correct, the veteran or family representative reads, signs, and dates the statement on the printed VA Form 10-10EC, agreeing to make the appropriate copayment for extended care services. The completed and signed VA Form 10-10EC is forwarded to medical records for filing.