

IMPLEMENTATION OF MEDICATION CO-PAYMENT CHANGES

1. PURPOSE: This Veterans Health Administration (VHA) Directive provides the Department of Veterans Affairs (VA) policy for charging certain Veterans co-payments for medication received on an outpatient basis for non-service connected conditions.

2. BACKGROUND

a. VA has authority in Title 38 (U.S.C.) 1722A(b) to increase the medication co-payment amount and to establish an annual cap on the amount of medication co-payments charged to certain priority groups.

b. VA is required by law to charge certain Veterans a co-payment for each 30-day or less supply of medication provided on an outpatient basis (other than medication administered during treatment) for treatment of a non-service connected condition. The medication co-payment will not be charged for medication that is exempt from the co-payment under Title 38 Code of Federal Regulations (CFR) 17.110(c).

c. By regulation 38 CFR 17.110, VA established an annual cap to help eliminate financial hardships for Veterans enrolled in Priority groups (Priority Groups 2, 3, 4, 5, and 6) who may require unusually large amounts of medication. When Veterans reach the annual cap, they continue to receive medications without making a co-payment. For calendar year 2002, the cap was set at \$840. An annual cap was not established for Veterans in Priority Groups 7 and 8.

d. Regulation 38 CFR also established a methodology for increasing the co-payment amount. Until this calendar year, the medication co-payment charge for each calendar year since 2002 was established by using the prescription drug component of the Medical Consumer Price Index as described in the following. Additionally, for each \$1 increase in the medication co-payment, the annual medication co-payment cap increased by \$120. The methodology for increasing the co-payment amount is as follows:

(1) For each calendar year beginning after December 31, 2002, the prescription drug component of the Medical Consumer Price Index of the previous September 30 is divided by the index as of September 30, 2001.

(2) The ratio obtained is multiplied by the original co-payment amount of \$7.

(3) The co-payment amount of the new calendar year, rounded down to the whole dollar amount, is the result.

THIS VHA DIRECTIVE EXPIRES DECEMBER 31, 2011

e. Based on this calculation, the medication co-payment rate for calendar years 2006 through 2009 was \$8. Additionally, the medication co-payment cap for Veterans in Priority Groups 2-6 for calendar years 2006 through 2009 was \$960.

f. Using this formula, the co-payment would have increased to \$9 effective January 1, 2010. However, in an Interim Final Rule published in the Federal Register Volume 74, page 69283, on December 31, 2009. VA temporarily froze the \$8 medication co-payment and the co-payment cap for 6 months for Priority Groups 2-8.

g. VA responded to public comments regarding the Interim Final Rule and affirmed that rule as final in the Federal Register Volume 75, pages 32668, on June 9, 2010. On June 9, 2010, VA also published another Interim Final Rule, Volume 75, pages 32670, that continued the medication co-payment amount at the \$8 rate for Veterans in Priority Groups 2 through 6 from July 1, 2010, through December 31, 2011, and continued the annual cap of \$960 per calendar year. Additionally, this rule allowed an increase in the medication co-payment rate for Veterans in Priority Groups 7 and 8 from \$8 to \$9 for this same period. *NOTE: There has never been a co-payment cap for these Veterans.*

h. The effective date of these changes is July 1, 2010, and these rates will remain in place through December 31, 2011. In the interim, VHA will ascertain whether there might be better indicators upon which the co-payment amounts can be based in order to ensure certain Veterans with greater need for medical care and lower income do not face significant financial hardships. At the end of calendar year 2011, if no other rulemaking is initiated, the co-payment calculation will continue based on the formula discussed above utilizing the prescription drug component of the Medical Consumer Price Index.

i. The VA Office of Information and Technology is working on two Veterans Health Information System and Technology Architecture (VistA) Patches, IB*2.0*429 and PRCA*4.5*268. These patches are to be installed prior to July 1, 2010.

3. POLICY: It is VHA policy (effective July 1, 2010) that Veterans in Priority Groups 2 through 6 must pay \$8 for each 30-day supply of outpatient medication prescribed for non-service connected conditions with annual cap of \$960. Veterans in Priority Group 7 and 8 must pay \$9 for each 30-day supply of outpatient medication prescribed for a non-service connected condition with no annual co-payment cap. The medication co-payment is not charged for medication that is exempt from the co-payment under 38 CFR 17.110(c).

4. ACTION: The Facility Director, or designee, is responsible for ensuring:

a. Patches IB*2.0*429 and PRCA*4.5*268 are installed at their VA health care facility prior to July 1, 2010;

b. Medication co-payments are deposited to the Medical Care Collections Fund (36X5287) for Pharmacy Co-payments Account 528701;

c. Interest charges are deposited into the Interest Paid on Receivables Fund 36_1735 if applicable; and

d. Administrative fees are deposited into the Administrative Charges Paid on Receivables fund 36_3220.

5. REFERENCES

a. Public Law 106-117.

b. Title 38 U.S.C. §1722A.

c. Title 38 CFR §17.110.

6. FOLLOW-UP RESPONSIBILITY: The Chief Business Office (16) is responsible for the contents of this Directive. Questions may be addressed to 202-461-1589.

7. RESCISSIONS: VHA Directive 2005-052 is rescinded. This VHA Directive expires December 31, 2011.

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