

September 14, 2011

**VA SUPPORT FOR THE PROVISION OF MEDICATIONS TO ELIGIBLE VETERANS
IN A STATE VETERANS NURSING HOME**

- 1. PURPOSE:** This Veterans Health Administration (VHA) Directive sets forth the requirements regarding the provision of medications to eligible Veterans residing in a State Veterans Nursing Home (SVNH).
- 2. BACKGROUND:** Section 211 of Public Law 109-461 established two levels of per diem payments, requiring the Department of Veterans Affairs (VA) to pay a higher per diem rate for Veterans with certain service-connected disabilities. For purposes of differentiation, these per diem levels are referred to as “basic per diem” and “higher per diem.” Title 38 United States Code (U.S.C.) § 1712(d), § 1745(b), and title 38, Code of Federal Regulations (CFR) §§ 17.96, 51.41(c), 51.42, and 51.43(f) authorize VA to provide medications to eligible Veterans residing in a SVNH depending on the per diem level, and the Veteran’s eligibility. Current VA policy states that drugs furnished to these additional Veterans must be included on VHA’s National Formulary, unless VA determines that a non-formulary drug or medicine is medically necessary.
- 3. POLICY:** It is VHA policy to provide medications for eligible Veterans residing in a SVNH and to determine payments for medications either by VA or SVNH.
- 4. ACTION:** All VHA facility Directors who are accountable for administering the SVNH Program in their areas of jurisdiction are responsible for ensuring that local policy and procedures are in place to:
 - a. Determine eligibility for medications to be provided at VA expense for eligible Veterans residing in a SVNH (refer to Att. B and Att. C).
 - (1) Veterans residing in a SVNH for whom the higher per diem under 38 CFR 51.41 is payable are not eligible for medications provided by VA. VA’s higher per diem payment constitutes payment in full to the SVNH by VA for nursing home care. These Veterans fall into three categories:
 - (a) Veterans who need nursing home care for a VA-adjudicated service-connected (SC) disability or,
 - (b) Veterans who have a singular or combined rating of 70 percent or more, based on one or more SC disabilities or,

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(c) Veterans who have a rating of total disability based on individual unemployability.

(2) Veterans in a SVNH who meet the criteria in any one of the following categories (for whom the higher per diem is not payable from VA, under 38 CFR 51.41) are eligible to request and receive medications from VA prescribed by non-VA physicians:

(a) Veterans who because of being permanently housebound or in need of regular aid and attendance qualify for special monthly compensation, or special monthly pension increased compensation, or increased pension and the drugs and medicines are prescribed as specific therapy in the treatment of any of the Veteran's illnesses or injuries (see 38 CFR 17.96). **NOTE:** *special monthly compensation and special monthly pension is referred to as increased compensation and increased pension in 38 CFR 17.96).*

(b) Veterans listed in subparagraph 4a(2)(a) who qualified for special monthly pension, but whose pension has been discontinued based on excess income (i.e., as long as the Veteran's annual income does not exceed the maximum annual income limitation by more than \$1,000), and the drugs and medicines are prescribed as specific therapy in the treatment of any of the Veteran's illnesses (see 38 CFR 17.96).

(c) Veterans who have a singular or combined rating of 50 or 60 percent based on one or more SC disabilities, and are in need of such drugs and medicines are eligible for all medications regardless of service connection.

(d) Veterans who have a singular or combined rating of less than 50 percent based on one or more SC disabilities, and are in need of drugs and medicines for a SC disability.

b. Provide the required medications in accordance with the options listed in Attachment A.

c. Ensure appropriate facility staff are aware of, and trained to carry out, the requirements of this Directive.

d. Ensure that an interim process is in place to ensure compliance with this Directive, which includes proper identification and provision of medication to eligible Veterans who reside in a SVNH, until changes are introduced and implemented in the Veterans Health Information Systems and Technology Architecture (VistA) computer system for accomplishing this. The interim process must include:

(1) Receipt of information from the SVNH by the local VA medical facility about each eligible Veteran, including a completed Form 10-0460, Request for Prescription Drugs for an Eligible Veteran in a State Home.

(2) A determination of a Veteran's eligibility for medications based on the level of per diem being paid to the SVNH, the Veteran's current SC rating, and whether or not the Veteran is in the SVNH as a direct result of one of the SC-rated conditions.

(3) Based on available information, the preparation of an Outpatient Narrative adequately describing the Veteran's status, to be entered into VistA using the Update Patient Record [PSO PAT] option within the pharmacy package.

(4) In conformance with all applicable state, Federal, and VA laws and regulations, the SVNH must send prescriptions for the Veteran, the SC condition, and associated SC percentage to the VA Outpatient Pharmacy.

(5) The pharmacist logs into the VistA Outpatient Pharmacy Application and selects a patient.

(6) The pharmacist presents with the rated SC disabilities and percentages in the VistA "patient narrative," which is compared to the information received from the SVNH for the resident. Any discrepancies or concerns must be verified, confirmed, and resolved in consultation with the Eligibility section at VA, the SVNH, and the Veteran's medical provider, as appropriate.

(7) Medication must be provided as required, packaged in a form that is acceptable to both the SVNH and VA by a mutual agreement.

(8) For medications prescribed by non-VA physicians, the pharmacist must enter the medical condition, if provided by the physician, on the Instruction Line for the prescription if it is for a SC condition, and process the prescription for the Veteran.

e. Ensure agreements entered into with SVNHs provide provisions that whenever medications are provided by VA facilities to Veterans in SVNHs, the SVNH is prohibited from getting reimbursement for those medications from third-party payers including Veterans.

5. REFERENCES

- a. Public Law 109-461.
- b. Title 38 U.S.C. § 1712(d), 1745.
- c. Title 38 CFR §17.96, 51.41(c), 51.42, 51.43(f).

6. FOLLOW UP RESPONSIBILITY: The Pharmacy Benefits Management Services (10P4P) is responsible for the contents of this Directive. Questions may be addressed to Pharmacy Benefits Management Services at 202-461-7297.

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7. RESCISSION: None. This VHA Directive expires September 30, 2016.

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Under Secretary for Health

Attachments

DISTRIBUTION: E-mailed to the VHA Publications Distribution List 9/15/2011

ATTACHMENT A

**PROCEDURES FOR PROVISION OF PRESCRIBED MEDICATIONS
TO ELIGIBLE VETERANS IN STATE VETERANS NURSING HOMES UNDER FOUR
OPTIONS**

If eligible Veterans authorize the State Veterans Nursing Home (SVNH) to request that the Department of Veterans Affairs (VA) fill prescriptions written by non-VA physicians, the VA medical facility and the SVNH need to agree on which one of the following options to use, and then implement that option.

1. OPTION 1. The VA medical center enters into a sharing agreement with a SVNH that has a pharmacy located in the SVNH for this pharmacy to fill prescriptions for residents in the SVNH using Federal Supply Schedule (FSS) contracts.

a. **Responsibilities of VA and the SVNH Under the Sharing Agreement**

(1) The SVNH orders medications for all residents in the SVNH directly from the VA-approved prime vendor of FSS contracts. The SVNH pays the prime vendor for all pharmaceuticals purchased.

(2) Under the sharing agreement, VA agrees to reimburse the SVNH for those Veterans eligible for medications from VA as listed in subparagraph 4a(2) of this Directive. The amount of reimbursement is negotiable, i.e., cost of medications plus negotiated monthly dispensing fee (per dose fee or per diem fee or per medication fee per month). To fulfill VA's obligation to provide the drug, however, VA must minimally agree to pay the SVNH its cost for the drug prescribed.

b. **Data Requirements**

(1) The sharing agreement must require that the SVNH provide data to VA in an electronic form (e.g., database or spreadsheet) on all medications provided to Veterans listed in subparagraph 4a(2) of this Directive. The medication data needs to be consistent with that used to bill Medicaid and other insurance entities (e.g., National Council for Prescription Drug Programs (NCPDP) 3.B.1 standard for electronic claims; see www.ncpdp.org).

(2) The sharing agreement must require that the SVNH submit a VA Form 10-10EZ, "Application for Health Benefits," signed by the Veteran, and a VA Form 10-10SH, "State Home Program Application for Veteran Care Medical Certificate," to the VA medical facility of jurisdiction in order that the VA may appropriately enter the Veteran into the Veterans Health Information Systems Technological Architecture (VistA). VA Pharmacy must verify eligibility of Veterans in the SVNH for VA medications through use of the eligibility data in the pharmacy medication profile of the VistA Pharmacy software and the per diem information from the SVNH.

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c. Auditing

(1) The VA medical facility must audit all reimbursement requests for accuracy. Medication audits need to be completed before VA makes payment. *NOTE: It is recommended that these audits be done in conjunction with the verification of the per diem payments audit and that it is done no less than quarterly.*

(2) During the annual fiscal audit of the SVNH, VA is to re-verify eligibility status of all affected Veterans for medications.

2. OPTION 2. The VA medical facility enters into a sharing agreement with a SVNH that has a pharmacy located in the SVNH, for this pharmacy to fill prescriptions for residents in the SVNH using VA to procure medications at the "ceiling" prices.

a. Responsibilities of VA and the SVNH Under the Sharing Agreement

(1) The SVNH orders medications for all residents in the SVNH directly from the VA-approved prime vendor. Under this option, the SVNH has access to VA's "ceiling prices." VA authorizes the order and makes the payment to the prime vendor for medications ordered by the SVNH.

(2) The SVNH must reimburse VA for VA's cost for the medications purchased for residents not covered in subparagraph 4a(2) of this Directive.

(3) In addition, under the sharing agreement, VA may require that the SVNH pay an administrative fee for processing the orders and payments, and for auditing pharmaceutical use by the SVNH. The SVNH may charge VA a dispensing fee for each prescription filled for eligible Veterans. These fees are negotiable, and can be equivalent, resulting in no added cost to either party.

b. Data Requirements

(1) The sharing agreement must require that the SVNH provide data to VA in an electronic form (e.g., database or spreadsheet) on all medications provided to all residents in the SVNH and must separately identify Veterans eligible for medications delineated in subparagraph 4a(2) of this Directive. The medication data needs to be consistent with that used to bill Medicaid and other insurance entities (e.g., NCPDP 3.B.1 standard for electronic claims; see: www.ncpdp.org).

(2) The sharing agreement must require that the SVNH submit a VA Form 10-10EZ, signed by the Veteran, and a VA Form 10-10SH, to the VA medical facility of jurisdiction in order that VA may appropriately enter the Veteran into VistA. The VA Pharmacy must verify eligibility of Veterans in the SVNH for VA medications, through use of the eligibility data in the pharmacy medication profile of the VistA Pharmacy software, and the per diem information from the SVNH.

c. **Auditing**

(1) VA must audit all information provided, and bill the SVNH for medication provided to all residents not listed in subparagraph 4a(2) of this Directive. The VA medical facility must compare the prime vendor purchase data with SVNH dispensing data for discrepancies. If discrepancies are identified, VA must ask the SVNH to provide an explanation. This requirement must be included in the sharing agreement. If the discrepancies cannot be reconciled, the sharing agreement must require the SVNH to pay for the medication in question.

NOTE: If the SVNH and VA choose this option, the terms and conditions of the sharing agreement must require the SVNH to submit information for the audit and verification of resident medication data to the VA medical facility no less than monthly. Since payments must be made to the pharmaceutical prime vendor according to the terms of the Prime Vendor contract, the medication audits must be conducted when the data is received. Medication audits need to be completed prior to billing the SVNH.

(2) During the annual fiscal audit of the SVNH, VA must re-verify eligibility status of all affected Veterans for medications under title 38 U.S.C. § 1745 and 38 CFR § 17.96.

3. OPTION 3. The SVNH enters into a sharing agreement with VA for VA to provide medications and pharmaceutical care services for the residents in the SVNH.

a. **Responsibilities of VA and the SVNH Under the Sharing Agreement**

(1) VA functions as the pharmacy for the SVNH. Reimbursement to VA for VA's cost for the medications provided for residents not covered in subparagraph 4a(2) of this Directive must be part of the sharing agreement.

(2) VA does not charge the SVNH the dispensing costs or medication costs associated with Veterans listed in subparagraph 4a(2) of this Directive.

(3) Because VA is accredited by The Joint Commission, VA is required to meet all applicable Joint Commission standards. The sharing agreement is to include a delineation of responsibilities relating to pharmaceutical services for both VA and SVNH.

b. **Data Requirements**

(1) The sharing agreement must require that the SVNH submit a VA Form 10-10EZ, signed by the Veteran, and a VA Form 10-10SH, to the VA medical facility in order that VA may appropriately enter the Veteran into VistA. The VA Pharmacy must verify eligibility of Veterans in the SVNH for VA medications, through use of the eligibility data in the pharmacy medication profile of the VistA Pharmacy software, and the per diem information from the SVNH.

(2) VA must maintain data in electronic form on all medications provided to all residents in the SVNH, utilizing one of the following mechanisms:

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(a) Input data in the existing SVNH information system.

(b) Input data in the VistA system directly at the SVNH. Access is either online or remote entry after receipt of paper medication orders.

(3) VA must provide medication data to the SVNH in an electronic form (e.g., database, spreadsheet, or online medication profiles) on all medications provided to all residents in the SVNH. VA must separately identify Veterans eligible for medications delineated in subparagraph 4a(2) of this Directive. The medication data needs to be consistent with that used to bill Medicaid and other insurance entities (e.g., NCPDP) 3.B.1 standard for electronic claims; see www.ncpdp.org.

c. **Auditing**

(1) The SVNH must have the opportunity to audit all medication data pursuant to the sharing agreement.

(2) During the annual fiscal audit of the SVNH, VA is to re-verify eligibility status of all affected Veterans for medications.

4. OPTION 4. VA only fills prescriptions for SVNH Veterans listed in subparagraph 4a(2) of this Directive.

a. **No Sharing Agreement is required**

b. **Data Requirements**

(1) The SVNH must submit to the VA medical facility of jurisdiction a VA Form 10-10EZ, signed by the Veteran, and a VA Form 10-10SH, in order to appropriately enter the Veteran in VistA.

(2) The VA Pharmacy must verify eligibility of Veterans in the SVNH for VA medications, through use of the eligibility data in the pharmacy medication profile of the VistA Pharmacy software, and the per diem information from the SVNH.

c. **Auditing**

(1) VA medical facility officials must ask the SVNH to permit VA to review the monthly medication reviews for all residents for whom VA fills prescriptions under this option.

(2) During the annual fiscal audit of the SVNH, VA is to re-verify eligibility status, of all affected Veterans, for medications.

ATTACHMENT B

SELECTED INFORMATION ON DIFFERENT OPTIONS

	The Option applies to all State Veterans Nursing Homes (SVNH)?	Sharing Agreement Needed?	Who Purchases the Medication?	Who Initiates the Bills for the Medication?	Medication Information is required for which residents?
Option 1	No, only SVNHs with a pharmacy.	Yes.	SVNH purchases from prime vendor of Federal Supply Schedule (FSS).	SVNH requests reimbursement from the Department of Veterans Affairs (VA) for eligible Veterans.	Eligible Veterans only.
Option 2	No, only SVNHs with a pharmacy.	Yes.	SVNH orders, VA authorizes orders and pays prime vendor.	VA bills SVNH for non-eligible Veterans and conditions and other residents.	All residents.
Option 3	Yes.	Yes.	VA.	VA bills SVNH for non-eligible Veterans and conditions and other residents.	All residents.
Option 4	Yes.	No.	VA.	N/A	Eligible Veterans only.

**ATTACHMENT C:
STATE VETERANS NURSING HOMES (SVNH): MEDICATION PRESCRIBING
PROCEDURES**

PRESCRIBED MEDICATIONS		
Rating-Singular or Combined	Veteran receiving Basic Per Diem or no per diem.	Veteran receiving Higher Per Diem
Rating of total disability based on individual unemployability.	N/A	Department of Veteran Affairs (VA) is not responsible for medications for these categories of residents. The costs for medications are included in the higher per diem that is paid to the SVNH, and VA does not provide medications.
70-100 percent	N/A	VA is not responsible for medications for these categories of residents. The costs for medications are included in the higher per diem that is paid to the SVNH, and VA does not provide medications.
50-60 percent	VA is responsible for all medications prescribed for Veteran's Service-Connected (SC) 50-60 percent for whom the higher per diem is not payable.	Veterans who are SC 50-60 percent and receiving care for reasons that include care for a VA adjudicated SC disability are eligible for the higher per diem and VA does not provide medications.
0-40 percent	VA is responsible for only those medications needed to treat a SC disability for Veterans SC up to 40 percent for whom the higher per diem is not payable.	Veterans who are SC up to 40 percent and receiving care for reasons that include care for a VA adjudicated SC disability are eligible for the higher per diem and VA does not provide medications.
Veterans who, because of being permanently housebound or in need of regular aid and attendance, qualify for special monthly compensation or special monthly pension and the drugs and medicines are prescribed as specific therapy in the treatment of any of the Veteran's illnesses or injuries.	VA is responsible for all medications prescribed for Veterans for whom the higher per diem is not payable.	N/A

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PRESCRIBED MEDICATIONS		
Rating-Singular or Combined	Veteran receiving Basic Per Diem or no per diem.	Veteran receiving Higher Per Diem
Veterans listed in preceding who qualified for special monthly pension, but whose pension has been discontinued based on excess income, as long as the Veteran's annual income does not exceed the maximum annual income limitation by more than \$1,000 and the drugs and medicines are prescribed as specific therapy in the treatment of any of the Veteran's illnesses.	VA is responsible for all medications prescribed for Veterans for whom the higher per diem is not payable.	N/A