

NON-VA MEDICAL CARE PROGRAM

1. REASON FOR ISSUE. This Veterans Health Administration (VHA) Directive provides information regarding the operation of the Non-VA Medical Care Program and describes VHA statutory and regulatory authority for purchasing community health care at Department of Veterans Affairs (VA) expense. **AUTHORITY:** Title 38 United States Code (U.S.C.) 1703; Title 38 Code of Federal Regulations (CFR) §§ 17.52-17.56; Title 38 U.S.C. 1728; Title 38 CFR §§ 17.120- 17.132; Title 38 U.S.C. 1725; Title 38 CFR §§ 17.1000-17.1008; Title 38 U.S.C. 1786; and Title 38 CFR 17.38(a)(1)(xiv). **NOTE:** *It is VHA policy that admission of any Veteran to a private or public hospital at VA expense will only be authorized when VA health care facilities (HCF) are not feasibly available, in accordance with 38 CFR § 17.53.*

2. SUMMARY OF CONTENT. To fulfill its mission of providing health care to Veterans, VHA purchases medical services from community health care providers under the Non-VA Medical Care Program. This Directive identifies VHA's statutory and regulatory authority for purchasing care, delineates responsibility for administration of the Non-VA Medical Care Program, and communicates a change in the program name to promote clarity and consistency in terminology. This Directive describes Veteran eligibility for Non-VA care at VA expense and precedes three (3) Non-VA Medical Care handbooks in the VHA concurrence process.

3. RELATED ISSUES. None.

4. RESPONSIBLE OFFICE. The VHA Chief Business Office (10NB) is responsible for the contents of this Directive. Questions related to the Non-VA Medical Care Program should be addressed to Purchased Care, National Non-VA Medical Care Program Office at 303-331-7500.

5. RESCISSIONS. None.

6. RECERTIFICATION. This VHA Directive is scheduled for recertification on or before the last working day of January 2018.

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1. PURPOSE: This Veterans Health Administration (VHA) Directive provides information regarding eligibility for and operation of the Non-VA Medical Care Program.

2. BACKGROUND

a. The Non-VA Medical Care Program evolved from the Department of Veterans Affairs (VA) Hometown Program that began in 1945. It has grown into an important avenue for providing needed care to Veterans in a timely manner. The Non-VA Medical Care Program has been referred to by many different names since 1945, with “fee care” and “fee basis care” becoming the prevalent terms. These terms, however, are used inconsistently within VHA. In order to promote clarity and consistency in the administration of this program, VA will no longer use “fee” to refer to care purchased from non-VA providers. When referring to care provided in the community and paid for by VA, the program name “Non-VA Medical Care” must be used.

b. Responsibility for the Non-VA Medical Care Program falls under the National Non-VA Medical Care Program Office (NNPO) which is under the Deputy Chief Business Officer for Purchased Care Services in VHA’s Chief Business Office. The NNPO is responsible for providing guidance and direction on a national level for program regulations, policies, and procedures. Business compliance oversight of the Non-VA Medical Care Program occurs locally in accordance with standards, directives and guidance from the VHA Office of Compliance and Business Integrity (10A4A1) consistent with national and local identified business risks.

3. POLICY: It is VHA policy that admission of any Veteran to a private or public hospital at VA expense will only be authorized when VA health care facilities are not feasibly available, in accordance with title 38 Code of Federal Regulations (CFR) § 17.53.

4. NON-VA MEDICAL CARE PROGRAM AUTHORITIES

VA has the following authorities to acquire and/or pay for non-VA care:

a. Payment for medical care, including inpatient and outpatient treatment and qualifying non-emergent and emergent care, acquired with prior VA authorization, may be authorized if provided for under a contract or purchase order (individual authorization) under title 38 United States Code (U.S.C.) 1703, and 38 CFR §§ 17.52-17.56 for those Veterans who are eligible under section § 17.52. Pursuant to 42 U.S.C. 1395cc(a)(1)(L), hospitals which provide inpatient hospital services which are Medicare providers have agreed to accept VA payment as set forth in VA regulations for a care or service acquired under 38 U.S.C. 1703. **NOTE:** *Prescriptions written by a non-VA provider in conjunction with a provider visit covered by VA, under the Non-VA Medical Care Program designation, are authorized to be filled by VA Pharmacy Service and are subject to VHA Handbook 1108.05 VHA Formulary Management Process. When emergency supplies of prescriptions cannot be obtained through VA Pharmacy Service, payment or reimbursement will be provided under certain limited circumstances through the Non-VA Medical Care Program. See Appendix A for the types of care and the Veterans eligible for that care as authorized by 38 U.S.C. 1703.*

- b. Payment for health care resources acquired with prior VA authorization may be authorized if provided for under a contract entered into under 38 U.S.C. 8153.

- c. Pursuant to 38 U.S.C. 1728 and 38 CFR §§ 17.120- 17.132, the expenses of emergency hospital or outpatient care provided without prior authorization from VA in a private or public (or Federal) hospital not operated by VA including transportation (except prosthetic appliances, similar devices, and repairs) may be paid for or reimbursed by VA for certain Veterans with service-connected conditions subject to VA review (see Appendix B for more information).

- d. If the Veteran is not eligible for payment or reimbursement under subparagraph 4c, payment or reimbursement for emergency services provided without prior authorization from VA may be paid for or reimbursed in accordance with 38 U.S.C 1725, and 38 CFR §§ 17.1000-17.1008 subject to VA review (see Appendix C for more information).

- e. Payment or reimbursement for newborn care provided post-delivery, with prior authorization from VA, for a newborn child for the date of birth plus seven calendar days after the birth of the child when the birth mother is a woman Veteran enrolled in VA health care and receiving maternity care furnished by VA or under authorization from VA and the child is delivered either in a VA facility, or in another facility pursuant to a VA authorization for maternity care at VA expense in accordance with 38 U.S.C. 1786 and 38 CFR 17.38(a)(1)(xiv).

TREATMENT UNDER TITLE 38 UNITED STATES CODE (U.S.C.) 1703

Subject to applicable law and regulations, treatment may be provided for:	Hospital	Outpatient	Authority
A Veteran’s Department of Veterans Affairs (VA) rated service-connected (SC) disability.	Yes	Yes	Title 38 Code of Federal Regulations (CFR) § 17.52 (a)(1)(i)
A disability for which the Veteran was released from active duty.	Yes	Yes	38 CFR § 17.52 (a)(1)(ii)
A disability of a Veteran who has a total disability permanent in nature from a SC disability.	Yes	Yes	38 CFR § 17.52 (a)(1)(iii)
A disability associated with and held to be aggravating a SC disability.	Yes	Yes	38 CFR § 17.52 (a)(1)(iv)
Medical treatment for any illness, injury or dental condition of a Veteran who is participating in a rehabilitation program under 38 U.S.C. Chapter 31 and who is medically determined to be in need of hospital care or medical services for any of the reasons enumerated in § 17.47(i)(2).	Yes	Yes	38 CFR § 17.52 (a)(1)(v)
Any disability of a Veteran who has a VA SC disability rating of 50 percent or greater.	No	Yes	38 CFR § 17.52 (a)(2)(i)
Any disability of a Veteran who has received VA inpatient care for treatment of nonservice-connected conditions for which treatment was begun during the period of inpatient care. The treatment period (to include care furnished in both facilities of VA and non-VA facilities or any combination of such modes of care) may not continue for a period exceeding 12 months following discharge from the hospital except when it is determined that a longer period is required by virtue of the disabilities being treated.	No	Yes	38 CFR § 17.52 (a)(2)(ii)

Subject to applicable law and regulations, treatment may be provided for:	Hospital	Outpatient	Authority
Hospital care or medical services for the treatment of medical emergencies which pose a serious threat to the life or health of a Veteran receiving hospital care or medical services in a facility over which the VA Secretary has direct jurisdiction or government facility with which the Secretary contracts, and for which the facility is not staffed or equipped to perform, and transfer to a public or private hospital which has the necessary staff or equipment is the only feasible means of providing the necessary treatment, until such time following the furnishing of care in the non-VA facility as the veteran can be safely transferred to a VA facility.	Yes	Yes	38 CFR § 17.52 (a)(3))
Hospital care for women Veterans.	Yes	No	38 CFR § 17.52 (a)(4)
Hospital care or medical services that will obviate the need for hospital admission for Veterans in Alaska, Hawaii, Virgin Islands and other territories of the United States except that the annually determined hospital patient load and incidence of the furnishing of medical services to Veterans hospitalized or treated at the expense of VA in government and non-VA facilities in each such State or territory shall be consistent with the patient load or incidence of the provision of medical services for veterans hospitalized or treated by VA within the 48 contiguous States.	Yes	Yes	38 CFR § 17.52 (a)(6)
Outpatient dental services and treatment, and related dental appliances, for a Veteran who is a former prisoner of war and was detained or interned for a period of not less than 181 days.	No	Yes	38 CFR § 17.52 (a)(7)

Subject to applicable law and regulations, treatment may be provided for:	Hospital	Outpatient	Authority
Hospital care or medical services for the treatment of medical emergencies which pose a serious threat to the life or health of a Veteran which developed during authorized travel to the hospital, or during authorized travel after hospital discharge preventing completion of travel to the originally designated point of return (and this will encompass any other medical services necessitated by the emergency, including extra ambulance or other transportation which may also be furnished at VA expense).	Yes	Yes	38 CFR § 17.52 (a)(8)
Diagnostic services necessary for determination of eligibility for, or of the appropriate course of treatment in connection with, furnishing medical services at independent VA outpatient clinics to obviate the need for hospital admission.	No	Yes	38 CFR § 17.52 (a)(9)
For any disability of a veteran receiving VA contract nursing home care. The Veteran is receiving contract nursing home care and requires emergency treatment in non-VA facilities.	Yes	Yes	38 CFR § 17.52 (a)(10)
For completion of evaluation for observation and examination (O&E) purposes, clinic directors or their designees will authorize necessary diagnostic services at non-VA facilities (on an inpatient or outpatient basis) in order to complete requests from VA Regional Offices for O&E of a person to determine eligibility for VA benefits or services.	Yes*	Yes*	38 CFR § 17.52 (a)(11)

**EMERGENCY TREATMENT OF SERVICE-CONNECTED (SC) CONDITIONS
UNDER TITLE 38 UNITED STATES CODE (U.S.C.) 1728**

Subject to applicable law and regulations, payment may be made for emergency medical treatment:	Hospital	Outpatient	Authority
For an adjudicated service-connected Disability; or	Yes	Yes	Title 38 Code of Federal Regulations (CFR) § 17.120(a)(1)
For nonservice-connected disabilities associated with and held to be aggravating an adjudicated service-connected disability; or	Yes	Yes	38 CFR § 17.120(a)(2)
For <i>any disability</i> of a Veteran who has a total disability permanent in nature resulting from a service-connected disability (does not apply outside of the States, Territories, and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico); or	Yes	Yes	38 CFR § 17.120(a)(3)
For any illness, injury or dental condition in the case of a Veteran who is participating in a rehabilitation program under 38 U.S.C. Chapter 31 and who is medically determined to be in need of hospital care or medical services for any of the reasons enumerated in § 17.47(i)(2); <u>and</u>	Yes	Yes	38 CFR § 17.120(a)(4)
The claim for payment or reimbursement for the initial evaluation and treatment is for a condition of such a nature that a prudent layperson would have reasonably expected that delay in seeking immediate medical attention would have been hazardous to life or health (this standard would be met if there were an emergency medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) that a prudent layperson who possesses an average knowledge of health and medicine could reasonably expect the absence of immediate medical attention to result in placing the health of the individual in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part); <u>and</u>	Yes	Yes	38 CFR§ 17.120(b)
VA or other Federal facilities that VA has an agreement with to furnish health care services for Veterans were not feasibly available, and an attempt to use them beforehand or obtain prior VA authorization for the services required would not have been reasonable, sound, wise, or practicable, or treatment had been or would have been refused.	Yes	Yes	38 CFR§ 17.120(c)

Subject to applicable law and regulations, payment may be made for emergency medical treatment:	Hospital	Outpatient	Authority
Subject to the requirements set forth in 38 CFR § 17.122(a)-(b), the expenses of repairs to prosthetic appliances, or similar appliances, therapeutic or rehabilitative aids or devices, furnished without prior authorization, but incurred in the care of an adjudicated service-connected disability (or, in the case of a Veteran who is participating in a rehabilitation program under 38 U.S.C. Chapter 31 and who is determined to be in need of the repairs for any of the reasons enumerated in 38 CFR § 17.47(i)(2) may be paid or reimbursed on the basis of a timely filed claim.	No	Yes	38 CFR§ 17.122

**EMERGENCY TREATMENT OF NONSERVICE-CONNECTED (NSC) CONDITIONS
UNDER TITLE 38 UNITED STATES CODE (U.S.C.) 1725**

Payment or reimbursement under 38 U.S.C. 1725 for emergency services may only be made if all of the following conditions are met:

Condition	Reference
The emergency services were provided in a hospital emergency department or a similar facility held out as providing emergency care to the public.	Title 38 Code of Federal Regulations (CFR) § 17.1002(a)
The claim for payment or reimbursement for the initial evaluation and treatment is for a condition of such a nature that a prudent layperson would have reasonably expected that delay in seeking immediate medical attention would have been hazardous to life or health (this standard would be met if there were an emergency medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) that a prudent layperson who possesses an average knowledge of health and medicine could reasonably expect the absence of immediate medical attention to result in placing the health of the individual in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part).	38 CFR § 17.1002(b)
A Department of Veterans Affairs (VA) or other Federal facility/provider was not feasibly available and an attempt to use them beforehand would not have been considered reasonable by a prudent layperson (as an example, these conditions would be met by evidence establishing that a Veteran was brought to a hospital in an ambulance and the ambulance personnel determined that the nearest available appropriate level of care was at a non-VA medical center).	38 CFR § 17.1002(c)
At the time the emergency treatment was furnished, the Veteran was enrolled in the VA health care system and had received medical services under authority of 38 U.S.C. Chapter 17 within the 24-month period preceding the furnishing of such emergency treatment.	38 CFR § 17.1002(d)
The Veteran is financially liable to the provider of emergency treatment for that treatment.	38 CFR § 17.1002(e)
The Veteran has no coverage under a health-plan contract for payment or reimbursement, in whole or in part, for the emergency treatment (this condition cannot be met if the Veteran has coverage under a health-plan contract but payment is barred because of a failure by the Veteran or the provider to comply with the provisions of that health-plan contract, e.g., failure to submit a bill or medical records within specified time limits, or failure to exhaust appeals of the denial of payment).	38 CFR § 17.1002(f)
If the condition for which the emergency treatment was furnished was caused by an accident or work-related injury, the claimant has exhausted without success all claims and remedies reasonably available to the Veteran	38 CFR § 17.1002(g)

Condition	Reference
or provider against a third party for payment of such treatment; and the Veteran has no contractual or legal recourse against a third party that could reasonably be pursued for the purpose of extinguishing, in whole, the Veteran's liability to the provider.	
The Veteran is not eligible for reimbursement under 38 U.S.C. 1728 for the emergency treatment provided.	38 CFR § 17.1002(h)