

APPLICATION OF THIRD-PARTY PAYMENTS TO VETERAN COPAYMENTS

- 1. SUMMARY OF CONTENT:** This directive outlines the required standards for Veterans to receive credit from third-party insurance payments received by the Department of Veterans Affairs (VA). The Veteran's third-party insurance payment applies to the first party copayment debt.
- 2. RELATED ISSUES:** VHA Directive 1600, Monitoring "Reasons Not Billable", dated March 5, 2021; VHA Directive 1601C.02, Revenue Utilization Review, dated February 1, 2019.
- 3. POLICY OWNER:** The Office of Revenue Operations (104RO) is responsible for the content of this directive. Questions may be referred to the Executive Director, Office of Revenue Operations at VHA104ROAction@va.gov.
- 4. RESCISSIONS:** None.
- 5. RECERTIFICATION:** This Veterans Health Administration (VHA) directive is scheduled for recertification on or before the last working day of February 2029. This VHA directive will continue to serve as national VHA policy until it is recertified or rescinded.
- 6. IMPLEMENTATION SCHEDULE:** This directive is effective upon publication.

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

/s/ Steven Lieberman, MD, MBA
Deputy Under Secretary for Health

NOTE: All references herein to the VA and VHA documents incorporate by reference subsequent VA and VHA documents on the same or similar subject matter.

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CONTENTS

APPLICATION OF THIRD-PARTY PAYMENTS TO VETERAN COPAYMENTS

1. POLICY 1

2. RESPONSIBILITIES 1

3. PROCEDURES FOR APPLICATION OF THIRD-PARTY PAYMENTS 3

4. TRAINING 6

5. RECORDS MANAGEMENT 6

6. BACKGROUND 6

7. DEFINITIONS 6

8. REFERENCES 6

APPLICATION OF THIRD-PARTY PAYMENTS TO VETERAN COPAYMENTS

1. POLICY

It is Veterans Health Administration (VHA) policy that when payment is received from a third-party payor for medical care for Veterans who incur Department of Veterans Affairs (VA) medical care copayment obligations, the Veterans must be allowed the benefit of that insurance payment, to the extent of and consistent with the available plan coverage, toward the satisfaction of their VA copayment obligations. **AUTHORITY:** 38 U.S.C. §§ 1729, 7301(b).

2. RESPONSIBILITIES

a. **Under Secretary for Health.** The Under Secretary for Health is responsible for ensuring overall VHA compliance with this directive.

b. **Deputy Under Secretary for Health.** The Deputy Under Secretary for Health is responsible for supporting the Office of Revenue Operations with implementation and oversight of this directive.

c. **Assistant Under Secretary for Health for Operations.** The Assistant Under Secretary for Health for Operations is responsible for:

(1) Communicating the contents of this directive to each of the Veterans Integrated Services Networks (VISNs).

(2) Assisting VISN Directors to resolve implementation and compliance challenges in all VA medical facilities within that VISN.

(3) Providing oversight of VISNs to ensure compliance with this directive and its effectiveness.

d. **Chief Financial Officer.** The Chief Financial Officer is responsible for communicating the contents of this directive to the Deputy Chief Financial Officer.

e. **Deputy Chief Financial Officer.** The Deputy Chief Financial Officer is responsible for:

(1) Communicating the contents of this directive to the Executive Director, Office of Revenue Operations.

(2) Assisting the Executive Director, Office of Revenue Operations to resolve implementation and compliance challenges across all Consolidated Patient Account Centers (CPACs).

f. **Executive Director, Office of Revenue Operations.** The Executive Director, Office of Revenue Operations is responsible for:

- (1) Communicating the contents of this directive to the Directors at each CPAC.
- (2) Providing oversight across CPACs, with compliance with this directive and ensuring corrective action is taken when non-compliance is identified.
- (3) Communicating to VISNs and VA medical facilities performance below expected targets (see paragraph 2.g.(2)).

g. **Director, Consolidated Patient Account Center.** The Director, Consolidated Patient Account Center (CPAC) is responsible for:

- (1) Ensuring the procedures for third-party payor (TPP) payments outlined in paragraph 3 are implemented by VHA Revenue Operations staff at the CPAC.
- (2) Tracking and analyzing insurance capture at VA medical facilities with a target rate of 90% as recorded in the Insurance Capture Buffer file entry report.
- (3) Reviewing and discussing compliance of the insurance capture target rate at the monthly Revenue Advisory Council (RAC) meetings. RAC communicates results and action plans between CPACs, VISNs and VA medical facilities outlined in the respective areas.

h. **VHA Revenue Operations Staff.** VHA Revenue Operations staff at the CPAC are responsible for:

- (1) Ensuring proper application of TPP payments to a Veteran's VA copayment obligation (see paragraph 3 for more information).
- (2) Consulting with Regional Counsel for tortfeasor or workers' compensation cases under the circumstances outlined in paragraph 3.e.

i. **Veterans Integrated Services Network Director.** The VISN Director is responsible for:

- (1) Ensuring that all VA medical facilities within the VISN comply with this directive and informing leadership when barriers to compliance are identified.
- (2) Ensuring that all VA medical facilities collect third-party insurance information consistent with the Service Level Agreement between the Office of Revenue Operations and the VISN, which outlines the roles of Revenue Operations staff and VA medical facility staff within the VISN.

j. **VA Medical Facility Director.** The VA medical facility Director is responsible for:

(1) Ensuring VA medical facility compliance with this directive and appropriate corrective action is taken when non-compliance is identified.

(2) Collecting third-party insurance information consistent with the Service Level Agreement for the VISN.

(3) Sharing performance challenges at the monthly RAC meetings.

3. PROCEDURES FOR APPLICATION OF THIRD-PARTY PAYMENTS

The Director, CPAC must ensure that the following procedures are implemented:

a. **Medical Care and Services Provided Under Special Authorities.** Medical care and services provided under special authorities (e.g., Agent Orange, Military Sexual Trauma, Combat Veterans) including prescriptions, are free of charge and are not subject to billing or copayment.

b. **Third-Party Payor Payments.** Third-party payments are applied to VA's TPP bill and then an offset is completed to the corresponding Veteran's VA copayment obligation, which is applied dollar-for-dollar up to but not to exceed the amount of the original copayment charge.

(1) VHA Revenue Operations staff must ensure proper application of TPP payments to a Veteran's VA copayment obligation where payments that have corresponding first-party VA copayments are linked to the same episode of care. The application of TPP payments for inpatient services must include the total payments for both the institutional claims and the professional claims for that inpatient stay. The same applies if billing tortfeasor claims.

(2) TPP payments must be applied to a Veteran's VA copayment obligation for the same inpatient stay, and both the inpatient copayment and the per diem charges must be considered as an incurred debt. Also, any VA copayments for pre-operation visits and post-operation visits related to that inpatient stay must be included in the application of TPP payments to a Veteran's VA copayment obligation.

(3) The application of TPP payments for outpatient services must include the total of all payments received on all the outpatient claims for that same episode of care.

(4) The application of TPP payments for extended care services must include the total of all payments received on all extended care service claims for that same episode of care or for date(s) of service, whichever is applicable.

(5) VHA Revenue Operations staff must review the Veteran's account to ensure proper application of TPP payments from Pharmacy and ePharmacy claims to a Veteran's VA copayment obligation.

(6) Interest payments submitted by TPPs under the Fair Claims Practices requirements of State law are deposited into the State-specific General Fund Receipt

account and are not deposited to the Medical Care Collections Fund. The interest portion of a TPP payment is not considered payments and may not be applied towards a Veteran's copayment obligation.

(7) If the application of the TPP remittance to the Veteran's VA copayment obligation does not extinguish the VA copayment for that episode of care, the remaining VA copayment balance is the Veteran's responsibility, and the Veteran is billed their copayment minus any insurance payments made prior to the copayment bill date.

c. **Third-Party Payment Application.** When the appropriate third-party payment is received from the insurance carrier, the amount must be posted to the TPP receivable. If the payment does not cover the total cost of the receivable, the remaining TPP receivable balance is contractually adjusted (decreased) to zero, and the corresponding VA copayment charge is released from Integrated Billing and passed to Accounts Receivable. To offset the first-party VA copayment, a decrease adjustment to the first party bill must be made in an amount up to the full amount of the payment from the insurance carrier, up to but not exceeding the total amount of the initial copayment charge for the corresponding episode of care billed. **NOTE:** For more information on how VA works with other health insurance, see <https://www.va.gov/health-care/about-va-health-benefits/va-health-care-and-other-insurance/>.

d. **VA Copayment Billing.** **NOTE:** The first party copayment automatically releases at 90 days, regardless of the status of the TPP bill in the Veterans Health Information System Technology Architecture (VistA) system. The first party copayment for sites transitioned to the Electronic Health Record Modernization system are released upon the next billing cycle or when third-party insurance is billed and paid with the remaining balance, if any, billed to the Veteran. Frequently, payment from the third-party insurance will meet the copay amount netting the copays charges to \$0.

(1) Insured Veterans responsible for VA copayment(s) for their VA health care are billed VA copayment(s) when the Veteran's third-party health plan:

(a) Remits payment in an amount that does not fully satisfy the Veteran's VA copayment obligation for that episode of care, in which case the Veteran remains responsible for the remaining VA copayment balance; or

(b) Denies payment, in which case the Veteran remains responsible for the entire amount of the VA copayment for that episode of care; or

(c) Fails to respond within the appropriate follow-up period after submission of VA's initial claim either by remitting payment or requesting additional information (such as VA medical records), in which case the Veteran remains responsible for the entire VA copayment for that episode of care; or

(d) Closes the TPP claim and the VHA Office of Revenue Operations staff ceases pursuit for payment from the TPP.

(2) Any payment received by TPP gets credited to the Veteran's account regardless of when that payment is received.

(3) All refunds are made once TPP is applied which triggers the account to be reviewed for any potential or appropriate refund.

(4) The Veteran is reimbursed for any payment made by TPP up to the amount the Veteran paid prior to the TPP payment.

e. **Tortfeasor and Workers' Compensation Exception.** When VA asserts its bill for medical care in a tortfeasor or workers' compensation case, and against the Veteran's health plan for that same care, complex questions often arise about application of TPP proceeds. The review process depends on the nature, scope and intent of the resolution of the tortfeasor or workers' compensation claim.

(1) For instance, a judgment or a settlement of a tortfeasor or workers' compensation case usually requires a compromise of all mutual interests of the parties. Such a settlement, therefore, may require refund of any VA copayments paid by the Veteran or write-off of any pending unpaid VA copayments. VA copayments that have been remitted can be considered in the overall settlement, obviating the need for refund.

(2) In such cases when payments have also been received from a TPP health plan, coordination of benefit requirements in many plans, as well as State law, may create an obligation to refund the payment from a Veteran's TPP health plan. In all such cases, Regional Counsel, who has jurisdiction of tortfeasor and workers' compensation claims, needs to be consulted by VHA Revenue Operations staff for determination of these issues.

(3) Regional Counsel must be consulted for a determination of the issues in those instances where VA's care or the injury that led to such care is likely to result or has resulted in a claim for damages against the United States under the Federal Tort Claims Act.

f. **Dual-Eligible Veteran, Active-Duty Exceptions.** When a patient is an enrolled Veteran and has TRICARE, the Veteran must elect Veteran or TRICARE benefit to be used for a date of service.

(1) When TRICARE is elected and a TRICARE affirmation form signed prior to the visit, the dual-eligible Veteran will be seen as a TRICARE Beneficiary and not a Veteran. When being seen using TRICARE, no Veteran copayment or offset is applied; a TRICARE first party debt will be billed based on the TRICARE Explanation of Benefits under Patient Responsibility.

(2) When the patient is a Veteran but is currently on active duty, no Veteran copayments may be billed. The patient must be seen as an active-duty Service member and billed TRICARE.

4. TRAINING

There are no formal training requirements associated with this directive.

5. RECORDS MANAGEMENT

All records regardless of format (e.g., paper, electronic, electronic systems) created by this directive must be managed as required by the National Archives and Records Administration (NARA) approved records schedules found in VHA Records Control Schedule 10-1. Questions regarding any aspect of records management should be addressed to the appropriate Records Officer.

6. BACKGROUND

All payments from any TPP, except as noted above, without regard to the type of health plan coverage that a Veteran may have for VA care or services, are applied dollar-for-dollar to the Veteran's copayment obligation. This applies regardless of whether the Veteran is Medicare-eligible and covered under a plan that supplements or coordinates available benefits with Medicare or is not Medicare-eligible and covered under some other form of health coverage.

7. DEFINITIONS

a. **Copayment.** A copayment is the cost the Veteran agrees to pay upon enrollment for nonservice-connected or special authority services. **NOTE:** *A copayment applies to Veterans whose income exceeds the established national income limits for cost-free care. VA health care copay rates can be found at <https://www.va.gov/health-care/copay-rates/>.*

b. **Third-Party Payor.** TPP is a health insurance plan paid for by the Veteran (beneficiary) or the Veteran's employer that VA bills for health care services rendered or paid for (community care) by VA.

c. **Tortfeasor.** A tortfeasor is an individual or entity that has been found to have committed a civil offense that injures another party. Such disputes are resolved in civil tort law cases. The objective of tort law is to provide a remedy for damage suffered by one party and caused by the action (or inaction) of another (the tortfeasor).

8. REFERENCES

a. 38 U.S.C. § 1729.

b. 38 C.F.R. §§ 17.101 and 17.106.

c. U.S. Department of Veterans Affairs. VA Health Care and Other Insurance. <https://www.va.gov/health-care/about-va-health-benefits/va-health-care-and-other-insurance/>.

d. U.S. Department of Veterans Affairs. VHA Health Care Copay Rates,
<https://www.va.gov/health-care/copay-rates/>.