provided to an eligible veteran in such facility:
(1) One-half of the cost of the care for each day the veteran is in the facility; or
(2) $71.42 for each day the veteran is in the facility.

(b) During Fiscal Year 2009 and during each subsequent Fiscal Year, VA will pay a facility recognized as a State home for nursing home care the lesser of the following for nursing home care provided to an eligible veteran in such facility:
(1) One-half of the cost of the care for each day the veteran is in the facility; or
(2) The basic per diem rate for the Fiscal Year established by VA in accordance with 38 U.S.C. 1741(c).

[74 FR 19432, Apr. 29, 2009]

§ 51.41 Contracts and provider agreements for certain veterans with service-connected disabilities.

(a) Contract or VA provider agreement required. VA and State homes may enter into both contracts and provider agreements. VA will pay for each eligible veteran’s care through either a contract or a provider agreement (called a “VA provider agreement”). Eligible veterans are those who:
(1) Are in need of nursing home care for a VA adjudicated service-connected disability, or
(2) Have a singular or combined rating of 70 percent or more based on one or more service-connected disabilities or a rating of total disability based on individual unemployability and are in need of nursing home care.

(b) Payments under contracts. Contracts under this section will be subject to this part to the extent provided for in the contract and will be governed by federal acquisition law and regulation. Contracts for payment under this section will provide for payment either:
(1) At a rate or rates negotiated between VA and the State home; or
(2) On request from a State home that provided nursing home care on August 5, 2012, for which the State home was eligible for payment under 38 U.S.C. 1745(a)(1), at a rate that reflects the overall methodology of reimbursement for such care that was in effect for the State home on August 5, 2012.

(c) Payments under VA provider agreements. (1) State homes must sign an agreement to receive payment from VA for providing care to certain eligible veterans under a VA provider agreement. VA provider agreements under this section will provide for payments at the rate determined by the following formula. For State Homes in a metropolitan statistical area, use the most recently published CMS Resource Utilization Groups (RUG) case-mix levels for the applicable metropolitan statistical area. For State Homes in a rural area, use the most recently published CMS Skilled Nursing Prospective Payment System case-mix levels for the applicable rural area. To compute the daily rate for each State home, multiply the labor component by the State home wage index for each of the applicable case-mix levels; then add to that amount the non-labor component. Divide the sum of the results of these calculations by the number of applicable case-mix levels. Finally, add to this quotient the amount based on the CMS payment schedule for physician services. The amount for physician services, based on information published by CMS, is the average hourly rate for all physicians, with the rate modified by the applicable urban or rural geographic index for physician work, then multiplied by 12, then divided by the number of days in the year.

NOTE TO PARAGRAPH (c)(1): The amount calculated under this formula reflects the prevailing rate payable in the geographic area in which the State home is located for nursing home care furnished in a non-Department nursing home (a public or private institution not under the direct jurisdiction of VA which furnishes nursing home care). Further, the formula for establishing these rates includes CMS information that is published in the Federal Register every year and is effective beginning October 1 for the entire fiscal year. Accordingly, VA will adjust the rates annually.

(2) The State home shall not charge any individual, insurer, or entity (other than VA) for the nursing home care paid for by VA under a VA provider agreement. Also, as a condition of receiving payments under paragraph (c) of this section, the State home must agree not to accept drugs and medicines from VA provided under 38 U.S.C. 1745(a), at a rate that reflects the overall methodology of reimbursement for such care that was in effect for the State home on August 5, 2012.
§ 51.42 Drugs and medicines for certain veterans.

(a) In addition to per diem payments under §51.40 of this part, the Secretary shall furnish drugs and medicines to a facility recognized as a State home as may be ordered by prescription of a duly licensed physician as specific therapy in the treatment of illness or injury for a veteran receiving care in a State home, if:

(1) The veteran:

(i) Has a singular or combined rating of less than 50 percent based on one or