more service-connected disabilities and
is in need of such drugs and medicines
for a service-connected disability; and
(ii) Is in need of nursing home care
for reasons that do not include care for
a VA adjudicated service-connected
disability.
(2) The veteran:
(i) Has a singular or combined rating
of 50 or 60 percent based on one or more
service-connected disabilities and is in
need of such drugs and medicines; and
(ii) Is in need of nursing home care
for reasons that do not include care for
a VA adjudicated service-connected
disability.
(b) VA may furnish a drug or medi-
cine under paragraph (a) of this section
only if the drug or medicine is included
on VA’s National Formulary, unless
VA determines a non-Formulary drug
or medicine is medically necessary.
(c) VA may furnish a drug or medi-
cine under paragraph (a) of this section
by having the drug or medicine deliv-
ered to the State home in which the
veteran resides by mail or other means
determined by VA.
(74 FR 19432, Apr. 29, 2009)
§ 51.43 Per diem and drugs and medi-
cines—principles.
(a) As a condition for receiving pay-
ment of per diem under this part, the
State home must submit to the VA
medical center of jurisdiction for each
veteran a completed VA Form 10–10EZ,
Application for Medical Disability, unless
VA determines a non-Formulary drug
or medicine is medically necessary.
(b) VA will pay per diem under this part
from the date of receipt of the com-
pleted forms required by this para-
graph, except that VA will pay per
diem from the day on which the vet-
eran was admitted to the facility if the
completed forms are received within 10
days after admission.
(b) VA pays per diem on a monthly
basis. To receive payment, the State
must submit to the VA medical center
of jurisdiction a completed VA Form
10-5588, State Home Report and State-
ment of Federal Aid Claimed. This
form is set forth in full at §58.11 of this
chapter.
(c) Per diem will be paid under §§51.40
and 51.41 for each day that the veteran
is receiving care and has an overnight
stay. Per diem also will be paid when
there is no overnight stay if the facili-
ty has an occupancy rate of 90 percent
or greater. However, these payments
will be made only for the first 10 con-
secutive days during which the veteran
is admitted as a patient for any stay in
a VA or other hospital (a hospital stay
could occur more than once in a cal-
endar year) and only for the first 12
days in a calendar year during which
the veteran is absent for purposes
other than receiving hospital care. Oc-
cupancy rate is calculated by dividing
the total number of patients in the
nursing home or domiciliary by the
total recognized nursing home or domi-
ciliary beds in that facility.
(d) Initial per diem payments will not
be made until the Under Secretary for
Health recognizes the State home.
However, per diem payments will be
made retroactively for care that was
provided on and after the date of the
completion of the VA survey of the fa-
cility that provided the basis for deter-
mining that the facility met the stand-
ards of this part.
(e) The daily cost of care for an eligi-
ble veteran’s nursing home care for
purposes of §§51.40(a)(1) and 51.41(b)(2)
is calculated by dividing the total direct and indirect
costs attributable to nursing home
care at the facility divided by the total
number of residents at the nursing
home. Relevant cost principles are set
forth in the Office of Management and
Budget (OMB) Circular number A-87,
dated May 4, 1995, “Cost Principles for
State, Local, and Indian Tribal Govern-
ments.”
(f) As a condition for receiving drugs and medicines under this part, the State must submit to the VA medical center of jurisdiction a completed VA Form 10–0460 for each eligible veteran. This form is set forth in full at §58.18 of this chapter. The corresponding prescriptions described in §51.42 also should be submitted to the VA medical center of jurisdiction.


§51.59 Authority to continue payment of per diem when veterans are relocated due to emergency.

(a) Definition of emergency. For the purposes of this section, emergency means an occasion or instance where all of the following are true:

1. It would be unsafe for veterans receiving care at a State home facility to remain in that facility.
2. The State is not, or believes that it will not be, able to provide care in the State home on a temporary or long-term basis for any or all of its veteran residents due to a situation involving the State home, and not due to a situation where a particular veteran’s medical condition requires that the veteran be transferred to another facility, such as for a period of hospitalization.
3. The State determines that the veterans must be evacuated to another facility or facilities.

(b) General authority to pay per diem during relocation period. Notwithstanding any other provision of this part, VA will continue to pay per diem for a period not to exceed 30 days for any eligible veteran who resided in a State home, and for whom VA was paying per diem, if such veteran is evacuated during an emergency into a facility other than a VA facility if the State is responsible for providing or paying for the care. VA will not pay per diem payments under this section for more than 30 days of care provided in the evacuation facility, unless the official who approved the emergency response under paragraph (e) of this section determines that it is not reasonably possible to return the veteran to a State home within the 30-day period, in which case such official will approve additional period(s) of no more than 30 days in accordance with this section. VA will not provide per diem if VA determines that a veteran is or has been placed in a facility that does not meet the standards set forth in paragraph (c)(1) of this section, and VA may recover all per diem payments made for the care of the veteran in that facility.