(e) **Disenrollment.** (1) Insureds may be involuntarily disenrolled at any time for failure to make premium payments. (2) Insureds must be permitted to voluntarily disenroll, and will not be required to continue to pay any copayments or premiums, under any of the following circumstances: (i) For any reason, during the first 30 days that the beneficiary is covered by the plan, if no claims for dental services or benefits were filed by the insured. (ii) If the insured relocates to an area outside the jurisdiction of the plan that prevents the use of the benefits under the plan. (iii) If the insured is prevented by serious medical condition from being able to obtain benefits under the plan. (iv) If the insured would suffer severe financial hardship by continuing in VADIP. (v) For any reason during the month-to-month coverage period, after the initial 12-month enrollment period. (3) All insured requests for voluntary disenrollment must be submitted to the insurer for determination of whether the insured qualifies for disenrollment under the criteria in paragraphs (e)(2)(i) through (v) of this section. Requests for disenrollment due to a serious medical condition or financial hardship must include submission of written documentation that verifies the existence of a serious medical condition or financial hardship. The written documentation submitted to the insurer must show that circumstances leading to a serious medical condition or financial hardship originated after the effective date coverage began, and will prevent the insured from maintaining the insurance benefits. (4) If the participating insurer denies a request for voluntary disenrollment because the insured does not meet any criterion under paragraphs (e)(2)(i) through (v) of this section, the participating insurer must issue a written decision and notify the insured of the basis for the denial and how to appeal. The participating insurer will establish the form of such appeals whether orally, in writing, or both. The decision and notification of appellate rights must be issued to the insured no later than 30 days after the request for voluntary disenrollment is received by the participating insurer. The appeal will be decided and that decision issued in writing to the insured no later than 30 days after the appeal is received by the participating insurer. An insurer’s decision of an appeal is final. (5) Month-to-month enrollment, as described in paragraph (d)(2) of this section, may be subject to conditions in insurance contracts, whereby upon voluntarily disenrolling, an enrollee may be prevented from re-enrolling for a certain period of time as specified in the insurance contract. (f) Other appeals procedures. Participating insurers will establish and be responsible for determination and appeal procedures for all issues other than voluntary disenrollment. (g) **Limited preemption of State and local law.** To achieve important Federal interests, including but not limited to the assurance of the uniform delivery of benefits under VADIP and to ensure the operation of VADIP plans at the lowest possible cost to VADIP enrollees, paragraphs (b), (c)(1), (c)(2), (d), and (e)(2) through (5) of this section preempt conflicting State and local laws, including laws relating to the business of insurance. Any State or local law, or regulation pursuant to such law, is without any force or effect on, and State or local governments have no legal authority to enforce them in relation to, the paragraphs referenced in this paragraph or decisions made by VA or a participating insurer under these paragraphs.

(Authority: Sec. 510, Pub. L. 111–163)

(The Office of Management and Budget has approved the information collection requirement in this section under control number 2900–0789.)


## Autopsies

### § 17.170 Autopsies.

(a) **General.** (1) Except as otherwise provided in this section, the Director of a VA facility may order an autopsy on a decedent who died while undergoing VA care authorized by §17.38 or §17.52, if the Director determines that an autopsy is required for VA purposes for the following reasons:
(i) Completion of official records; or
(ii) Advancement of medical knowledge.

(2) VA may order an autopsy to be performed only if consent is first obtained under one of the following circumstances:

(i) Consent is granted by the surviving spouse or next of kin of the decedent;

(ii) Consent is implied where a known surviving spouse or next of kin does not respond within a specified period of time to VA’s request for permission to conduct an autopsy;

(iii) Consent is implied where a known surviving spouse or next of kin does not inquire after the well-being of the deceased veteran for a period of at least 6 months before the date of the veteran’s death; or

(iv) Consent is implied where there is no known surviving spouse or next of kin of the deceased veteran.

(b) Death resulting from crime. If it is suspected that death resulted from crime and if the United States has jurisdiction over the area where the body is found, the Director of the Department of Veterans Affairs facility will inform the Office of Inspector General of the known facts concerning the death. Thereupon the Office of Inspector General will transmit all such information to the United States Attorney for such action as may be deemed appropriate and will inquire whether the United States Attorney objects to an autopsy if otherwise it be appropriate. If the United States Attorney has no objection, the procedure as to autopsy will be the same as if the death had not been reported to him or her.

(c) Jurisdiction. If the United States does not have exclusive jurisdiction over the area where the body is found, the local medical examiner/coroner will be informed. If the local medical examiner/coroner declines to assume jurisdiction the procedure will be the same as is provided in paragraph (b) of this section. If a Federal crime is indicated by the evidence, the procedure of paragraph (b) of this section will also be followed.

(d) Applicable law. (1) The laws of the state where the autopsy will be performed are to be used to identify the person who is authorized to grant VA permission to perform the autopsy and, if more than one person is identified, the order of precedence among such persons.

(2) When the next of kin, as defined by the laws of the state where the autopsy will be performed, consists of a number of persons such as children, parents, brothers and sisters, etc., permission to perform an autopsy may be accepted when granted by the person in the appropriate class who assumes the right and duty of burial.

(e) Death outside a VA facility. The Director of a VA facility may order an autopsy on a veteran who was undergoing VA care authorized by §17.38 or §17.52, and whose death did not occur in a VA facility. Such authority also includes transporting the body at VA’s expense to the facility where the autopsy will be performed, and the return of the body. Consent for the autopsy will be obtained as stated in paragraph (d) of this section. The Director must determine that such autopsy is reasonably required for VA purposes for the following reasons:

(1) The completion of official records; or
(2) Advancement of medical knowledge.

(Authority: 38 U.S.C. 501, 1703, 1710)