

**§ 17.38 Medical benefits package.**

(a) Subject to paragraphs (b) and (c) of this section, the following hospital, outpatient, and extended care services constitute the “medical benefits package” (basic care and preventive care):

- (1) Basic care.
  - (i) Outpatient medical, surgical, and mental healthcare, including care for substance abuse.
  - (ii) Inpatient hospital, medical, surgical, and mental healthcare, including care for substance abuse.
  - (iii) Prescription drugs, including over-the-counter drugs and medical and surgical supplies available under the VA national formulary system.
  - (iv) Emergency care in VA facilities; and emergency care in non-VA facilities in accordance with sharing contracts or if authorized by § 17.52(a)(3), § 17.53, § 17.54, §§ 17.120 through 17.132, or §§ 17.4000 through 17.4040.
  - (v) Bereavement counseling as authorized in § 17.98.
  - (vi) Comprehensive rehabilitative services other than vocational services provided under 38 U.S.C. chapter 31.
  - (vii) Consultation, professional counseling, marriage and family counseling, training, and mental health services for the members of the immediate family or legal guardian of the veteran or the individual in whose household the veteran certifies an intention to live, as necessary and appropriate, in connection with the veteran’s treatment as authorized under 38 CFR 71.50.
  - (viii) Durable medical equipment and prosthetic and orthotic devices, including eyeglasses and hearing aids as authorized under § 17.149.
  - (ix) Home health services authorized under 38 U.S.C. 1717 and 1720C.
  - (x) Reconstructive (plastic) surgery required as a result of disease or trauma, but not including cosmetic surgery that is not medically necessary.
  - (xi)(A) Hospice care, palliative care, and institutional respite care; and
    - (B) Noninstitutional extended care services, including but not limited to noninstitutional geriatric evaluation, noninstitutional adult day health care, and noninstitutional respite care.
  - (xii) Payment of beneficiary travel as authorized under 38 CFR part 70.
  - (xiii) Pregnancy and delivery services, to the extent authorized by law.

(xiv) Newborn care, post delivery, 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.

(xv) Completion of forms (e.g., Family Medical Leave forms, life insurance applications, Department of Education forms for loan repayment exemptions based on disability, non-VA disability program forms) by healthcare professionals based on an examination or knowledge of the veteran’s condition, but not including the completion of forms for examinations if a third party customarily will pay health care practitioners for the examination but will not pay VA.

(2) Preventive care, as defined in 38 U.S.C. 1701(9), which includes:

- (i) Periodic medical exams.
  - (ii) Health education, including nutrition education.
  - (iii) Maintenance of drug-use profiles, drug monitoring, and drug use education.
  - (iv) Mental health and substance abuse preventive services.
  - (v) Immunizations against infectious disease.
  - (vi) Prevention of musculoskeletal deformity or other gradually developing disabilities of a metabolic or degenerative nature.
  - (vii) Genetic counseling concerning inheritance of genetically determined diseases.
  - (viii) Routine vision testing and eye-care services.
  - (ix) Periodic reexamination of members of high-risk groups for selected diseases and for functional decline of sensory organs, and the services to treat these diseases and functional declines.
- (b) *Provision of the “medical benefits package”.* Care referred to in the “medical benefits package” will be provided to individuals only if it is determined by appropriate healthcare professionals that the care is needed to promote, preserve, or restore the

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health of the individual and is in accord with generally accepted standards of medical practice.

(1) *Promote health.* Care is deemed to promote health if the care will enhance the quality of life or daily functional level of the veteran, identify a predisposition for development of a condition or early onset of disease which can be partly or totally ameliorated by monitoring or early diagnosis and treatment, and prevent future disease.

(2) *Preserve health.* Care is deemed to preserve health if the care will maintain the current quality of life or daily functional level of the veteran, prevent the progression of disease, cure disease, or extend life span.

(3) *Restoring health.* Care is deemed to restore health if the care will restore the quality of life or daily functional level that has been lost due to illness or injury.

(c) In addition to the care specifically excluded from the “medical benefits package” under paragraphs (a) and (b) of this section, the “medical benefits package” does not include the following:

(1) Abortions and abortion counseling.

(2) In vitro fertilization. Note: See § 17.380.

(3) Drugs, biologicals, and medical devices not approved by the Food and Drug Administration unless the treating medical facility is conducting formal clinical trials under an Investigational Device Exemption (IDE) or an Investigational New Drug (IND) application, or the drugs, biologicals, or medical devices are prescribed under a compassionate use exemption.

(4) Gender alterations.

(5) Hospital and outpatient care for a veteran who is either a patient or inmate in an institution of another government agency if that agency has a duty to give the care or services. This exclusion does not apply to veterans who are released from incarceration in a prison or jail into a temporary housing program (such as a community residential re-entry center or halfway house).

(6) Membership in spas and health clubs.

[64 FR 54217, Oct. 6, 1999, as amended at 67 FR 35039, May 17, 2002; 73 FR 36798, June 30, 2008; 75 FR 54030, Sept. 3, 2010; 76 FR 11339, Mar. 2, 2011; 76 FR 26172, May 5, 2011; 76 FR 78571, Dec. 19, 2011; 82 FR 6275, Jan. 19, 2017; 84 FR 26306, June 5, 2019]

### § 17.39 Certain Filipino veterans.

(a) Any Filipino Commonwealth Army veteran, including one who was recognized by authority of the U.S. Army as belonging to organized Filipino guerilla forces, or any new Philippine Scout is eligible for hospital care, nursing home care, and outpatient medical services within the United States in the same manner and subject to the same terms and conditions as apply to U.S. veterans, if such veteran or scout resides in the United States and is a citizen or lawfully admitted to the United States for permanent residence. For purposes of these VA health care benefits, the standards described in 38 CFR 3.42(c) will be accepted as proof of U.S. citizenship or lawful permanent residence.

(b) Commonwealth Army Veterans, including those who were recognized by authority of the U.S. Army as belonging to organized Filipino guerilla forces, and new Philippine Scouts are not eligible for VA health care benefits if they do not meet the residency and citizenship requirements described in § 3.42(c).

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900-0091)

(Authority: 38 U.S.C. 501, 1734)

[71 FR 6680, Feb. 9, 2006]

### § 17.40 Additional services for indigents.

In addition to the usual medical services agreed upon between the governments of the United States and the Republic of the Philippines to be made available to patients for whom the Department of Veterans Affairs has authorized care at the Veterans Memorial Medical Center, any such patient determined by the U.S. Department of Veterans Affairs to be indigent or without funds may be furnished toilet articles