

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0545]

Agency Information Collection Activity Under OMB Review: Report of Medical, Legal and Other Expenses Incident to Recovery for Injury or Death

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. Refer to “OMB Control No. 2900–0545”.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email maribel.aponte@va.gov. Please refer to “OMB Control No. 2900–0545” in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 38 U.S.C 1503; 38 CFR 3.262, 3.271, 3.272.

Title: Report of Medical, Legal and Other Expenses Incident to Recovery for Injury or Death (VA Form 21P–8416b).

OMB Control Number: 2900–0545.

Type of Review: Extension of a currently approved collection.

Abstract: A claimant’s eligibility for needs-based pension programs are determined in part by countable family income and certain deductible expenses. When a claimant is awarded compensation by another entity or government agency based on personal injury or death, the compensation is usually countable income for VA purposes (38 CFR 3.262(i)). However, medical, legal or other expenses incident to the injury or death, or incident to the collection or recovery of

compensation, may be deducted from the amount of the award or settlement (38 CFR 3.271(g) and 3.272(g)). In these situations, VBA uses VA Form 21P–8416b *Report of Medical, Legal and Other Expenses Incident to Recovery for Injury or Death*, to gather information that is necessary to determine eligibility for income-based benefits and the rate payable; without this information, determination of eligibility would not be possible. In an effort to safeguard Veterans and their beneficiaries from financial exploitation, the instructions on VA Form 21P–8416b were amended to include information regarding VA-accredited attorneys or agents charging fees in connection with a proceeding before the Department of Veterans Affairs with respect to a claim.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on March 17, 2021, page 14686.

Affected Public: Individuals or Households.

Estimated Annual Burden: 1,125 hours.

Estimated Average Burden per Respondent: 45 minutes.

Frequency of Response: Once.

Estimated Number of Respondents: 1,500.

By direction of the Secretary.

Dorothy Glasgow,

(Alternate) VA PRA Clearance Officer, Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.

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DEPARTMENT OF VETERANS AFFAIRS

Notice of Asset and Infrastructure Review (AIR) Commission Foreword and Criteria

AGENCY: Department of Veterans Affairs.
ACTION: Notice of Final Action

SUMMARY: The Secretary of the Department of Veterans Affairs (VA) is required to develop criteria that will be used in making recommendations regarding the modernization or realignment of Veterans Health Administration (VHA) facilities. This notice provides the required final selection criteria.

FOR FURTHER INFORMATION CONTACT: Valerie Mattison Brown, Chief Strategy

Officer, Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461–7100.

SUPPLEMENTARY INFORMATION: Subtitle A of Title II of the Maintaining Internal Systems and Strengthening Integrated Outside Networks (MISSION) Act of 2018 (Pub. L. 115–182), requires VA to develop criteria that will be used to assess and make recommendations regarding the modernization or realignment of Veterans Health Administration (VHA) facilities (“Selection Criteria”). In 2019, VHA began working with various stakeholders and experts to identify factors to consider in developing the criteria. VHA solicited feedback from Veterans Service Organizations (VSOs), Community Veteran Engagement Boards (CVEBs) and a wide range of interdisciplinary VA leaders. Six criteria and associated sub-criteria were developed through these engagements. VA will use these criteria to evaluate potential market opportunities for submission to the statutorily mandated Asset and Infrastructure Review (AIR) Commission.

On February 2, 2021, VA published a **Federal Register** Notice (FRN), requesting public comment on the draft Selection Criteria as required by Section 203 of the MISSION Act (86 FR 7921). The public comment period closed on May 1, 2021. VA received a total of 122 comments on the FRN from Veterans, caregivers, VSOs, legislative partners, research partners, business partners, and other stakeholders. Of the 122 comments, 31 comments specifically referenced the draft Section Criteria, and 14 out of those 31 comments recommended specific changes or considerations be applied to the draft Section Criteria. These 14 comments were further reviewed and considered by VA for inclusion into the final Section Criteria.

The FRN comments are publicly available online at www.regulations.gov. Copies of the comments are also available for public inspection in the Office of Regulation Policy and Management, Room 1064, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (exception holidays). Please call (202) 461–4902 (this is not a toll-free number) for an appointment.

Foreword

The Department of Veterans Affairs (“VA”) is honored to deliver exceptional health care and services to more than 9 million Veterans. As we look to the future, VA remains committed to a core set of immutable

values that empower, strengthen, and encourage a vibrant and healthy Veteran community. At the forefront of every decision VA makes is a commitment to serving as an integrated system to provide coordinated, lifelong, world-class health care and services that leverage cutting-edge research and equitable access to the Nation's top academic and medical professionals. VA's vision is built on a foundation of inclusion, honor, and respect for every Veteran's unique experience. As VA transforms to optimize resources and modernize infrastructure and systems, the Department will remain committed to its role as the primary provider and coordinator of Veteran care. By expanding our work with communities, caregivers, and strategic partners VA will achieve outcomes that empower Veterans for generations to come.

As the unprecedented COVID-19 public health crisis consumed the Nation and the globe, VA rose to the challenge, demonstrating the strength of our nationwide, integrated system, and solidifying our position at the leading edge of U.S. health care on behalf of those we serve. We employed each of our four health-related missions—health care, education, research, and emergency response—to lead the Nation forward beside our interagency and strategic partners. As demonstrated during the pandemic, these missions complement one another and together are vital elements of a complete VA transformation vision. Many U.S. healthcare leaders expect that health care delivery trends post-pandemic will incorporate adaptations that worked well for many patients, including Veterans. In particular, a national survey of U.S. adults reported that 3 in 10 had at least one virtual visit during the pandemic.¹ VA recognizes that a 'new normal' with more virtual options for care and services may have significant implications for the way future health care delivery systems are designed. VA intends to stay at the leading edge of this type of person-centered innovation, employing the full complement of our core missions.

As Veteran needs, preferences, and demographics shift over the coming decades, VA's top priority will be to design an integrated system of care and benefits that is outcomes-based, and values-driven. As an integrated system, VA will ensure reliable access to meaningful care coordination that includes expanding availability of

digital health care services and maintaining capacity to serve as the backstop to the national health care system. VA will strengthen its partnerships with a growing network of public and private-sector allies and strive to lead the nation in Veteran-relevant research and innovation. At every turn, VA will remain committed to evidence-based policymaking and effective governance that always puts the Veteran first.

In line with VA's vision, VA submits the following set of Selection Criteria for making recommendations regarding the modernization or realignment of VHA facilities as required by Section 203 of the MISSION Act of 2018. The Selection Criteria are designed to keep Veterans' needs at the center of the decision-making process, assuring that each Veteran can receive the integrated care they have earned and deserve.

Criteria

VA's vision for the future of VA health care is an integrated system that honors America's Veterans by providing lifelong, world-class care and benefits, while leveraging cutting-edge research and equitable access to the Nation's top health, academic, and research professionals. The market assessments required by Section 203 of the MISSION Act of 2018 were designed and being conducted in support of this vision. The assessments provide VA with the ability to plan for the continuing evolution of Veteran health care, incorporating major trends and events in the national and global health ecosystem (e.g., the COVID-19 pandemic and telehealth). Each assessment will identify strategic opportunities to position VA to increase health care access points in locations where the demand for VA health care services is not being met, enhance Veteran experience, account for social determinants,² consider health equity factors³ and serve as the coordinator of Veteran health care and services. Through thoughtful and constructive engagements with internal and external stakeholders, the following criteria were developed to ensure opportunities

² Social determinants as defined by the Department of Health and Human Services (HHS)—are "conditions in the environments in which people are born, live, learn, work, play, worship, and age that affect a wide range of health, functioning, and quality-of-life outcomes and risks." Link: <https://www.hrsa.gov/about/organization/bureaus/ohe/index.html>.

³ Health equity as defined by HHS—is "the absence of disparities or avoidable differences among socioeconomic and demographic groups or geographical areas in health status and health outcomes such as disease, disability, or mortality. Link: <https://www.hrsa.gov/about/organization/bureaus/ohe/index.html>.

identified for VA Market⁴ recommendations⁵ support VA's goal in designing high performing integrated networks through VHA realignment and modernization opportunities.

The Secretary will use the Selection Criteria to make recommendations to the AIR Commission regarding the modernization and realignment of VHA facilities. Recommendations submitted to the AIR Commission will focus on creating Veteran-centric outcomes that maintain or improve health care services through the most equitable modalities and at locations that are most beneficial to those VA serves. The recommendations will then go through the AIR Commission review process as outlined in the MISSION Act.

The Selection Criteria are broken out into six domains, each of which complement the others. The ordering of the domains follows as they appear in the MISSION Act legislation. Each criterion begins with a commitment statement, outlining VA's philosophy and commitment to current and future Veterans, followed by the criterion statement, sub-criteria, and explanatory statement:

Veterans' Need for Care & Services and the Market's Capacity To Provide Them (Demand)

Commitment Statement: VA is committed to providing Veterans the full range of integrated care and services needed and desired throughout their lifetime, to include preventive, acute and chronic care. These services will be carefully balanced to meet Veterans' needs and preferences with the capacity available through VA's direct care system, our Community Care Network (CCN), and government, academic, and other strategic partners. VA intends to ensure Veterans receive the personalized care they have earned. VA will do this by matching the services and support Veterans may need with VA's ability to provide those services in a timely manner.

Demand Criterion: The recommendation aligns VA's high performing integrated network resources to effectively meet the future health care demand of the Veteran enrollee population with the capacity in the Market.

Demand Sub-Criteria: The recommendation:

⁴ A VA Market is comprised of VA owned and/or operated facilities, as well as Department of Defense (DoD), Tribal, other federal agency, academic affiliates, and other community partners.

⁵ A VA Market recommendation is comprised of multifaceted, interdependent strategic opportunities across the continuum of care within a Market.

¹ Link to survey: https://www.urban.org/sites/default/files/publication/103457/one-in-three-adults-used-telehealth-during-the-first-six-months-of-the-pandemic-but-unmet-needs-for-care-persisted_1.pdf.

- Aligns the quality and delivery of integrated care and services with projected Veteran demand across demographics and geography;
- Retains or improves VA's ability to meet projected demand; and
- Incorporates trends in the evolution of U.S. health care.

When applying the demand criterion, VA will consider how a recommendation will impact VA's ability to meet the needs of Veterans in the future. An assessment of the existing health services available in the Market will aide in determining market adjustments. VA will consider what Veterans may need through understanding of the services that Veterans have accessed in the past and are projected to need and prefer in the future. VA will also consider how and where Veterans wish to receive services, including in ambulatory settings, hospitals, in the community, through telehealth, and through innovative models and modalities.

Accessibility of Care for Veterans (Access)

Commitment Statement: VA intends to provide Veterans with an accessible, whole health experience, with services thoughtfully designed to meet their needs. VA will do this by making the services and support Veterans need accessible through locations, models, and modalities that most benefit them and match their needs and preferences.

Access Criterion: The recommendation maintains or improves Veteran access to care.

Access Sub-Criteria:

The recommendation:

- Aligns VA points of care and services with projected Veteran need across demographics and geography;
- Ensures Veterans are provided a range of integrated health care options and the opportunity to choose the care they trust throughout their lifetime;
- Enables VA to serve as the coordinator of each Veteran's health care, whether provided within or beyond VA;
- Considers health equity, defined as the absence of disparities or avoidable differences among socioeconomic and demographic groups or geographical areas in health status and health outcomes such as disease, disability, or mortality;
- Reflects consideration of factors underpinning observed access patterns regarding conditions in the environment in which people are born, live, learn, work, play, worship, and age that affect a wide range of health functioning, and quality-of-life outcomes and risks; and

- Incorporates trends in the evolution of U.S. health care.

When applying the 'access' criterion, VA will consider how a recommendation will impact the convenience and experience of care provided to Veterans in the future. Key components of access include the time it takes to receive care in the VA system and in the community and the barriers and accelerators to receiving care, such as distance or availability of technology or availability of culturally competent experience in the community.

Impact on Mission

Commitment Statement: VA is committed to delivering best-in-class care throughout Veterans' lifetimes. This means positioning VA health care system at the leading edge of the health care industry in education, research, and national emergency preparedness.

Impact on Mission Criterion: The recommendation provides for VA's second, third, and fourth health related statutory missions of education, research, and emergency preparedness.

Impact on Mission Sub-Criteria:

The recommendation:

- Aligns resources to VA's education, research, and emergency preparedness missions across demographics and geography;
- **Education:**⁶ Maintains or enhances VA's ability to execute its education mission;
- **Research:**⁷ Maintains or enhances VA's ability to execute its research mission;
- **Emergency⁸ Preparedness:** Maintains or enhances VA's ability to execute its emergency preparedness mission; and
- Incorporates trends in the evolution of U.S. health care.

The 'impact on mission' criterion allows VA to consider how a recommendation will impact VA's ability to execute our statutory missions of education, research, and emergency preparedness in support of Veterans and the Nation.

⁶ VA's education mission has a profound impact on VA's human capital requirements as well as the future healthcare workforce (70% of US physicians received some training in a VA health care facility).

⁷ VA's research mission is grounded in care delivery to Veterans and focuses on health issues that affect Veterans.

⁸ VA's strong emergency preparedness mission has provided broad support to Veterans and focuses on health issues that affect Veterans. Nation during multiple public health emergencies, including but not limited to COVID (e.g., for Hurricane Maria VA was THE source of 'boots on the ground' for all relief efforts).

Providing the Highest Quality Whole Health Care (Quality)

Commitment Statement: VA is committed to providing Veterans with a high-quality, whole health care system that delivers an excellent experience of care and optimal health outcomes. VA will deliver the same high quality, evidence-based standards of care regardless of where, or by which modality, their care is received.

Quality Criterion: The recommendation considers the quality and delivery of health care services available to Veterans, including the experience, safety, and appropriateness of care.

Quality Sub-Criteria:

The recommendation:

- Ensures the highest possible quality of care across demographics and geography;
- Promotes recruitment of top clinical and non-clinical talent;
- Maintains or enhances Veteran experience; and
- Incorporates trends in the evolution of U.S. health care.

When applying the 'quality' criterion, VA will consider how a recommendation will impact the quality of care for Veterans. Quality in health care is measured through metrics and ratings assessed by federal and commercial health care entities. VA will consider the care needs and preferences of Veterans in order to provide optimal experience, safety, and outcomes.

Effective Use of Resources for Veteran Care (Cost Effectiveness)

Commitment Statement: VA is committed to optimizing the Veteran health care system through the effective and sustainable use and sharing of taxpayer resources, including staffing, space, infrastructure, and funding, with the goal of providing Veterans with the best health care and outcomes. VA will actively and mindfully manage resources, allowing VA to provide services and support that effectively match Veterans' needs and preferences while putting their health and empowerment at the center of system design.

Cost Effectiveness Criterion: The recommendation provides a cost-effective means by which to provide Veterans with modern health care.

Cost Effectiveness Sub-Criteria:

The recommendation:

- Reflects stewardship of taxpayer dollars by optimizing investments and resources to achieve advancements in access and outcomes for Veterans;
- Recognizes potential savings or efficiencies that may free resources for

more impactful investment for Veterans; and

- Considers the value of Veteran and employee experience, innovation, and other intangible elements of value.

When applying the ‘cost effectiveness’ criterion, VA will consider whether a recommendation optimizes funding for Veteran care.

Ensuring a Safe and Welcoming Health Care Environment of Care (Sustainability)

Commitment Statement: VA is committed to providing Veterans a safe and welcoming health care environment. Our goal is for Veterans to feel safe physically, mentally, socially, and emotionally when receiving care with access to a full range of experts and specialists. VA is committed to providing standard and complementary types of care for our unique Veteran

population in an equitable and inclusive environment. VA will do this by ensuring points of care are modern and inviting, with an expert workforce and care options designed to meet Veterans where they are in their health journey.

Sustainability Criterion: The recommendation creates a sustainable health care delivery system for Veterans.

Sustainability Sub-Criteria:

The recommendation:

- Aligns investment in care and services with projected Veteran care needs across demographics and geography;
- Reflects stewardship of taxpayer dollars by creating a sustainable infrastructure system for Veterans;
- Enables recruitment and retention of top clinical and non-clinical talent; and
- Incorporates trends in the evolution of U.S. health care.

When applying the ‘sustainability’ criterion, VA will consider how a

recommendation impacts our ability to offer Veterans a welcoming and safe care environment that meets modern health care standards and ensures sustainability for future generations of Veterans.

Signing Authority:

Denis McDonough, Secretary of Veterans Affairs, approved this document on May 25, 2021, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Jeffrey M. Martin,

Assistant Director, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

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