

listed in 21 U.S.C. 2341(5)(B) or a list of organizations specifically identified by the Commission?

(C) The proposed language above would apply to a defendant who participates in a transnational criminal organization. Should the Commission limit application of the enhancement to a defendant who receives an adjustment under § 3B1.1 (Aggravating Role), or who holds a leadership or organizing role (or some other role) within a transnational criminal organization?

(D) The proposed language would include a requirement that the defendant participated in an organization “knowing [or with reckless disregard of the fact]” that the organization was a transnational criminal organization. Is this *mens rea* requirement appropriate, or should the Commission revise or remove the requirement?

(E) If the Commission were to promulgate a new specific offense characteristic related to transnational criminal organizations, could it result in unwarranted sentencing disparities? If so, how should the Commission address those disparities?

5. Are there any other aggravating or mitigating circumstances in cases sentenced under § 2L1.1 that the Commission should address? If so, what are those circumstances, and how might the Commission account for them?

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DEPARTMENT OF VETERANS AFFAIRS

[Docket No. VA–2026–VACO–0001]

Implementation of Section 402 of Title IV (HOME Act of 2024) of the Senator Elizabeth Dole 21st Century Veterans Healthcare and Benefits Improvement Act

AGENCY: Department of Veterans Affairs (VA).

ACTION: Notification of subregulatory guidance.

SUMMARY: This notice informs the public of the VA’s implementation of Title IV, Section 402 of the Senator Elizabeth Dole 21st Century Veterans Healthcare and Benefits Improvement Act, which increased the maximum per diem rate from 115 percent to 133 percent of the State Home domiciliary care rate beginning on the date of the enactment of the HOME Act of 2024 and ending on September 30, 2027.

DATES: This guidance is effective on February 6, 2026.

FOR FURTHER INFORMATION CONTACT: Chelsea Watson, Grant and Per Diem Program, Veterans Health Administration. GPDGrants@va.gov; (202) 461–0056.

SUPPLEMENTARY INFORMATION: On January 2, 2025, the President signed into law the Senator Elizabeth Dole 21st Century Veterans Healthcare and Benefits Improvement Act (the Act; Public Law 118–210). Section 402 of the Act amended 38 U.S.C. 2012(a)(2)(B)(i)(II)(aa)(BB) and increased the maximum per diem rate from 115 percent to 133 percent of the State Home domiciliary care rate beginning on the date of the enactment of the HOME Act of 2024 (title IV of Public Law 118–210) and ending on September 30, 2027. Section 402 also amended 38 U.S.C. 2012(a)(2)(B)(iii) to allow VA, for each of fiscal years (FY) 2025–2027, to waive the maximum rate for per diem payments to provide payments at a rate that does not exceed 200% of the rate authorized for State homes for domiciliary care under 38 U.S.C. 1741(a)(1)(A) for no more than 50% of all grant recipients and eligible entities for a FY, subject to the availability of funding. VA must also notify Congress of the waiver. In addition, section 402 stipulates that VA may not provide more than 12,000 per diem payments under this section for a fiscal year. As of October 1, 2025, VA implemented the provision of the Act allowing for increased per diem payments up to 133 percent of the State Home domiciliary care rate. This notice informs the public of VA’s approach to implementing the provision that allows VA to waive the maximum rate for per diem and, subject to the availability of appropriations, provide such payments at a rate that does not exceed 200 percent of the rate authorized for State homes for domiciliary care under 38 U.S.C. 1741(a)(1)(A), if VA notifies Congress of such waiver.

This notice provides information on how VA will implement section 402 of the Act and is not a solicitation for public comment or a request for information regarding VA’s implementation of section 402 of the Act. Therefore, responses to this notice may not be used to inform VA’s implementation of section 402 of the Act, and VA will not address such responses.

VA has found that in certain time-limited circumstances, increased per diem payments help sustain GPD grantee operations and service delivery for Veterans experiencing or at risk of experiencing homelessness. GPD remains VA’s most enduring and cost-

effective transitional, supportive housing program with demonstrable success in achieving permanent housing placements for Veterans.

Examples of circumstances for time-limited per diem increases include:

a. Relocating Veterans in grantee-furnished housing due to natural disasters, fires, or other urgent instances.

b. Maintaining grantee-furnished housing in areas with limited housing and/or high costs to operate transitional housing.

c. Addressing fluctuations in operating costs due to variations in demand stemming from seasonal changes or the changing availability of other community housing resources.

d. Managing variations in the availability of funding from collaborative sources, such as other Federal, state, or local grants, or private donations.

e. Providing individual or less congregate living spaces for Veterans to accommodate various programmatic needs (e.g., Veterans with custody of minor dependents, support for physical and/or mental health needs).

f. Enhancing staffing resources to facilitate same-day access, increased outreach within the community, and/or address emerging needs of Veterans, such as those who are older or disabled.

In these examples, GPD grantees may incur significant costs, which impact their ability to remain financially solvent and potentially jeopardize GPD-furnished services to Veterans.

Although the State Home rate inherently adjusts annually to roughly align with inflationary pressures, these examples of increased costs represent instances where annual adjustments may not suffice to preserve continuity of services to homeless Veterans.

An initial application period of 30 days will be open to allow any interested and eligible grantee to request a waiver of the maximum rate for per diem payments under the criteria outlined in this notice. VA will select grantees starting with the highest-ranking requests and continuing in order until available funding is exhausted or until 50 percent of the currently eligible grant awards are selected for a waiver, whichever comes first. As noted above, under the amendments made by section 402, VA may not waive the maximum rate for more than 50 percent of all grant recipients and eligible entities for a fiscal year. If more than 50 percent of all grantees request a per diem rate waiver, VA will evaluate the requests as described below. If fewer than 50 percent of all grantees request a per

diem rate waiver, VA will select all eligible grantees, subject to the availability of funding and the grantees' ability to demonstrate allowable, allocable, and reasonable costs warrant the waiver. All requests for a waiver will be accepted through the normal per diem rate request process as detailed on the GPD website: https://www.va.gov/HOMELESS/GPD_Provider_website.asp#rate.

VA will consider five factors when deciding which current grantees, per Federal Award Identification Number (FAIN), will be granted a waiver. VA will also establish procedures to evaluate financial accountability to ensure that funds are used appropriately and effectively.

Five Criteria Establishing if a Current Grantee Is Eligible To Request a Temporary Per Diem Rate Waiver

To determine if a grantee is eligible to request a temporary per diem rate waiver, VA will establish that the grantee is in good standing. Grantees not meeting the criteria outlined below will be disqualified from consideration for a per diem rate waiver:

- a. The requester is a current GPD grantee with an active grant award/FAIN authorized by 38 U.S.C. 2011, 2012;
- b. The per diem budget request demonstrates sufficient allocable costs allowed under these awards to prevent overdrawn funds, which could result in unobligated funds and debt to VA;
- c. The waiver request certifies compliance with Federal cost principles outlined in 2 CFR part 200, known as the Uniform Guidance [*e.g.*, allowable (2 CFR 200.403), reasonable (2 CFR 200.404), and allocable (2 CFR 200.405) costs], requirements in part 61 of title 38 CFR, all applicable statutes and regulations, and the terms of the grant agreement. (By regulation, the rate of per diem for each Veteran in supportive housing will be the lesser of 100% of the estimated cost of care, minus other sources of income, or the current State Home rate (38 CFR 61.33(c)(1)).);
- d. The requesting grantee has certified their commitment to maintaining records that accurately identify the amount, source, and expenditure of funds by Federal award, as well as track unobligated balances. (Per diem rates must be reviewed at least monthly to prevent the accrual of excessive unobligated balances. If necessary, the grantee will take immediate corrective action to adjust the per diem rate.); and
- e. The grantee does not have an outstanding obligation to VA that is in arrears or an overdue or unsatisfactory response to an audit.

Need-Impact Ranking Calculation for Grantees Determined Eligible To Request a Temporary Per Diem Rate

If a requesting grantee meets the above five criteria, the following two areas (need and impact) will be used to evaluate the merit of the request:

a. **Need:** GPD grantees must demonstrate a need for the increased per diem funding through the submission of a per diem rate budget request. In addition to outlining the allocable, allowable, and reasonable costs factored into their budget, grantees are instructed to provide a brief narrative describing how the funding received, if approved for the per diem rate waiver, will primarily be directed towards supporting direct services to Veterans. To calculate need, VA will weigh the difference between the per diem rate requested under the Act and the normal maximum per diem rate, *i.e.*, 133 percent for Per Diem Only (PDO) grantees currently under the Act, and 150 percent for Transition in Place (TIP) grantees by statute. Applicants who have demonstrated a greater need for a higher per diem rate will have a higher need multiplier as part of the need-impact ranking discussion below.

b. **Impact:** VA will evaluate the impact of increased per diem funding. Established grantees with grant/FAINs that are larger in scope (*i.e.*, have a greater number of GPD-funded beds available to Veterans) and demonstrate consistently high occupancy rates under their current FAIN will be determined to have greater impact in the community and have served a greater number of Veterans. VA will base impact assessment on the average number of occupied beds for the two months preceding the waiver request submission. For new grantees without historical occupancy data, VA will assume a 70 percent occupancy rate. VA is using the 70 percent occupancy rate as a baseline measure for impact assessment in the absence of historical data and demonstrates a reasonable program utilization rate for the first year of operation.

VA will determine the need-impact ranking for each waiver request by assigning a numerical score to both the "need" and "impact" criteria. VA will then multiply these two scores to produce a final score for each request. VA will then rank requests from highest to lowest based on these final scores. VA will select the highest-ranking requests until the available funding is exhausted or until 50 percent of the eligible grant awards have been granted a waiver, whichever comes first.

Example 1: Grantee A is a PDO grantee with a current maximum per diem rate of \$82.73, which is 133% of the State Home domiciliary care rate. Grantee A is authorized to provide up to 20 beds, but their average number of occupied beds for the two months preceding the waiver request submission was 18 beds. They requested a waiver and submitted a properly completed per diem rate budget request for \$124.40. Grantee A meets the five eligibility criteria. The need-impact calculation is \$41.67 ($\$124.40 - \82.73) \times 18 beds = 750.06 need impact ranking score.

Example 2: Grantee B is a PDO grantee with a current maximum per diem rate of \$82.73, which is 133% of the State Home domiciliary care rate. Grantee B is authorized to provide up to 50 beds, but their average number of occupied beds for the two months preceding the waiver request submission was 39 beds. They requested a waiver and submitted a properly completed per diem rate budget request for \$101.00. Grantee B meets the five eligibility criteria. The need-impact calculation is \$18.27 ($\$101.00 - \82.73) \times 39 beds = 712.53 need impact ranking score.

Based on the examples above, Grantee A would be ranked higher and selected for a per diem rate waiver before Grantee B. VA will utilize this ranking process to select eligible grantees for the per diem rate waiver.

VA retains discretion to award additional per diem rate waivers after the period for the initial solicitation of waiver requests ends. If a per diem rate waiver is awarded and then rescinded, or if VA does not receive applications from up to 50 percent of eligible grantees, VA will consider additional applications for the waiver, on a case-by-case basis, until VA has reached the 50 percent cap of eligible grantees or until funds are no longer available.

VA's decisions regarding per diem rate waivers are final. VA reserves the right to modify or rescind per diem rate waiver increases at its discretion for any reason; as noted above, if VA rescinds a waiver, it will not consider this waiver as counting against the 50 percent cap established by law. Per diem rate waivers will only be provided if funding is sufficient. As noted above, section 402 provides that VA may waive the maximum rate for per diem payments and, subject to the availability of appropriations, provide payments at a rate that does not exceed 200 percent of the rate authorized for State homes for domiciliary care. However, the actual increased per diem payment rate made available to eligible grantees who are

selected for a waiver will be based on the grantee's need, impact, and actual costs.

VA is not yet exercising its authority to establish through regulation other matters that VA may consider in exceeding its established per diem rate. Should VA do so in the future, it will do so through rulemaking consistent

with the Administrative Procedure Act (5 U.S.C. 553).

Signing Authority

Douglas A. Collins, Secretary of Veterans Affairs, approved this document on February 2, 2026 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.

Gabriela DeCuir,

*Alternate Federal Register Liaison Officer,
Department of Veterans Affairs.*

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