

§ 17.30

- 17.1005 Payment limitations.
- 17.1006 Decisionmakers.
- 17.1007 Independent right of recovery.
- 17.1008 Balance billing prohibited.

AUTHORITY: 38 U.S.C. 501, 1721, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 17 appear at 61 FR 7216, Feb. 27, 1996.

DEFINITIONS AND ACTIVE DUTY

§ 17.30 Definitions.

When used in Department of Veterans Affairs medical regulations, each of the following terms shall have the meaning ascribed to it in this section:

(a) *Medical services*. The term *medical services* includes, in addition to medical examination, treatment, and rehabilitative services:

(1) Surgical services, dental services and appliances as authorized in §§17.160 through 17.166, optometric and podiatric services, (in the case of a person otherwise receiving care or services under this chapter) the preventive health care services set forth in 38 U.S.C. 1762, wheelchairs, artificial limbs, trusses and similar appliances, special clothing made necessary by the wearing of prosthetic appliances, and such other supplies or services as are medically determined to be reasonable and necessary.

(Authority: 38 U.S.C. 1701(6)(A)(i))

(2) Such consultation, professional counseling, training and mental health services as are necessary in connection with the treatment—

(i) Of the service-connected disability of a veteran pursuant to §17.93(a);

(ii) Of the nonservice-connected disability of a veteran where such services were initiated during the veteran's hospitalization and the provision of such services is essential to permit the release of the veteran from inpatient care;

for the members of the immediate family or legal guardian of the veteran, or the individual in whose household such veteran certifies an intention to live, as may be essential to the effective treatment and rehabilitation of the veteran or dependent or survivor of a veteran receiving care under §17.84(c). For the purposes of this paragraph, a dependent or survivor of a veteran re-

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ceiving care under §17.84(c) shall be eligible for the same medical services as a veteran; and

(3) Transportation and incidental expenses for any person entitled to such benefits under the provisions of §17.143.

(Authority: 38 U.S.C. 1701(6))

(b) *Domiciliary care*. The term *domiciliary care* means the furnishing of a home to a veteran, embracing the furnishing of shelter, food, clothing and other comforts of home, including necessary medical services. The term further includes travel and incidental expenses pursuant to §17.143.

(Authority: 38 U.S.C. 1701(4))

[23 FR 6498, Aug. 22, 1958, as amended at 24 FR 8326, Oct. 14, 1959; 30 FR 1787, Feb. 9, 1965; 32 FR 6841, Mar. 4, 1967; 32 FR 13813, Oct. 4, 1967; 33 FR 5298, Apr. 3, 1968; 33 FR 19009, Dec. 20, 1968; 34 FR 9339, June 13, 1969; 36 FR 4782, Mar. 12, 1971; 45 FR 6934, Jan. 31, 1980; 47 FR 58246, Dec. 30, 1982; 49 FR 50029, Dec. 26, 1984; 51 FR 25264, July 10, 1986; 54 FR 14648, Apr. 12, 1989; 61 FR 21965, 21966, May 13, 1996; 62 FR 17072, Apr. 9, 1997]

§ 17.31 Duty periods defined.

Definitions of duty periods applicable to eligibility for medical benefits are as follows:

(a)–(c) [Reserved]

(d) *Inactive duty training*. The term *inactive duty training* means: (1) Duty (other than full-time duty) prescribed for Reserves (including commissioned officers of the Reserve Corps of the Public Health Service) by the Secretary concerned under section 206, title 37 U.S.C., or any other provision of law;

(2) Special additional duties authorized for Reserves (including commissioned officers of the Reserve Corps of the Public Health Service) by an authority designated by the Secretary concerned and performed by them on a voluntary basis in connection with the prescribed training or maintenance activities of the units to which they are assigned.

(3) Duty (other than full-time duty) for members of the National Guard or Air National Guard of any State under the provisions of law stated in paragraph (c)(3) of this section.

(4) Inactive duty for training does not include work or study performed in

connection with correspondence courses, or attendance at an educational institution in an inactive status, or duty performed as a temporary member of the Coast Guard Reserve.

[34 FR 9339, June 13, 1969, as amended at 45 FR 6934, Jan. 31, 1980; 45 FR 43169, June 26, 1980; 48 FR 56580, Dec. 22, 1983; 61 FR 21965, May 13, 1996]

EDITORIAL NOTE: At 61 FR 21965, May 13, 1996, §17.31 was amended by removing (a), (b) introductory text, (b)(1) through (b)(4), (b)(6), (b)(7) and (c). Text remaining in effect is set forth above.

§ 17.31 Duty periods defined.

Full-time duty as a member of the Women's Army Auxiliary Corps, Women's Reserve of the Navy and Marine Corps and Women's Reserve of the Coast Guard.

[34 FR 9339, June 13, 1969, as amended at 61 FR 21965, May 13, 1996]

EDITORIAL NOTE: At 61 FR 21965, May 13, 1996, §17.31(b)(5) was redesignated as §17.31.

PROTECTION OF PATIENT RIGHTS

§ 17.32 Informed consent.

(a) Definitions:

Close friend. Any person eighteen years or older who has shown care and concern for the patient's welfare, who is familiar with the patient's activities, health, religious beliefs and values, and who has presented a signed written statement for the record that describes that person's relationship to and familiarity with the patient.

Decision-making capacity. The ability to understand and appreciate the nature and consequences of health-care treatment decisions.

Health-care agent. An individual named by the patient in a Durable Power of Attorney for Health Care.

Legal guardian. A person appointed by a court of appropriate jurisdiction to make decisions for an individual who has been judicially determined to be incompetent.

Practitioner. Any physician, dentist, or health-care professional who has been granted specific clinical privileges to perform the treatment or procedure involved. For the purpose of obtaining informed consent for medical treatment, the term practitioner includes medical and dental residents regardless

of whether they have been granted clinical privileges.

Signature consent. The patient's or surrogate's signature on a VA-authorized consent form, e.g., a published numbered VA form (OF 522) or comparable form approved by the local VA facility.

Special guardian. A person appointed by a court of appropriate jurisdiction for the specific purpose of making health-care decisions.

Surrogate. An individual, organization or other body authorized under this section to give informed consent on behalf of a patient who lacks decision-making capacity.

(b) *Policy.* Except as otherwise provided in this section, all patient care furnished under title 38 U.S.C. shall be carried out only with the full and informed consent of the patient or, in appropriate cases, a representative thereof. In order to give informed consent, the patient must have decision-making capacity and be able to communicate decisions concerning health care. If the patient lacks decision-making capacity or has been declared incompetent, consent must be obtained from the patient's surrogate. Practitioners may provide necessary medical care in emergency situations without the patient's or surrogate's express consent when immediate medical care is necessary to preserve life or prevent serious impairment of the health of the patient or others and the patient is unable to consent and the practitioner determines that the patient has no surrogate or that waiting to obtain consent from the patient's surrogate would increase the hazard to the life or health of the patient or others. In such circumstances consent is implied.

(c) *General requirements for informed consent.* Informed consent is the freely given consent that follows a careful explanation by the practitioner to the patient or the patient's surrogate of the proposed diagnostic or therapeutic procedure or course of treatment. The practitioner, who has primary responsibility for the patient or who will perform the particular procedure or provide the treatment, must explain in language understandable to the patient or surrogate the nature of a proposed procedure or treatment; the expected