# ALL - VA Recovery

**About this Memo**

**Mandate Eff. Date:**
09/01/99

**Products Affected:**
Group, Individual and Specialty Products

**Products NOT Affected:**
N/A

**Notes:**
N/A

**Extraterritorial:**
YES

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Original

**Topics Covered in This Document**

**Public Law 105-33**

Public Law 105-33 authorized the Veteran's Administration (VA) to recover from health plans "reasonable charges" for non-service connected health care furnished to insured veterans, rather than the prior basis of "reasonable cost". The VA has developed a methodology and procedures for converting from the previous cost-based per diem billing system to the new reasonable charges billing system. The result is these regulations, effective 9/1/99. Claims for services provided prior to 9/1/99 would continue to be based on reasonable cost.

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**Definitions**

"**Non-service connected disability**" is any disability not connected with military service.

"**Reasonable charges**" are the reasonable, usual and customary amounts payable for covered expenses.

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**VA Right of Recovery**

The VA has the authority to collect or recover charges from a third party (insurance carrier) to the extent that a provider of the care or services would be eligible to receive payment from that third party, regardless of whether the services were provided by a government

department or agency.

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**Carrier Liability**

The third party (carrier) continues to have the option of paying, to the extent of plan benefits. Payment may be made for either the billed charges or the amount the third party demonstrates it would pay for care or services furnished by providers other than entities of the US for the same care or services in the same geographic area.

These provisions allow collection or recovery by VA for medical care or services provided or furnished to a veteran:

- For a non-service connected disability for which the veteran is entitled to care (or the payment of expenses of care) under a health plan contract;
- For a non-service connected disability incurred incident to the veteran's employment and covered under a worker's compensation law or plan that provides reimbursement or indemnification for such care and services; or
- For a non-service connected disability incurred as a result of a motor vehicle accident in a state that requires automobile accident reparations insurance.

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**Applicable Charges**

The charges billed using this methodology consist of:

- Inpatient facility charges
- Skilled nursing facility/sub-acute inpatient facility charges
- Outpatient facility charges
- Physician charges
- Non-physician provider charges

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**Dental and Rx**

Reasonable charges for outpatient dental care and prescription drugs not administered during treatment will continue to be billed using the existing cost-based methodology.

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**Calculation of Reasonable Charges**

The VA considered it impractical to develop reasonable charges based on prevailing rates for services in the locality of each VA facility because there is insufficient data for some services at a number of localities. They have therefore adopted separate formulas for each of the categories listed above.

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**Inpatient Facility Charges**

VA will calculate inpatient facility charges on a per diem basis using a formula that takes trended, geographically adjusted weighted average from the Medicare Standard Analytical File 5% Sample and from the MedStat claim database for 1995, adjusted to reflect 80$^{th}$ percentile charges.

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**Skilled Nursing Facility/Sub-acute Inpatient Facility Charges**

Skilled nursing facility/sub-acute inpatient facility charges will be per diem charges that vary by VA facility. The facility charges cover services, including skilled rehabilitation services (physical therapy, occupational therapy, and speech therapy) that are provided in a nursing home or hospital inpatient setting, and incorporate charges for ancillary services associated with care provided in those settings. VA calculates charges based on a formula that takes a trended, geographically adjusted average using data from the 1998 Milliman & Robertson, INC. Health Cost Guidelines adjusted to reflect the nationwide 80$^{th}$ percentile charge level, for 1998.

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**Outpatient Facility Charges**

Outpatient facility charges, as appropriate, will include separate charges for prosthetic devices and durable medical equipment that reflect actual costs to VA. It is industry practice to purchase the devices and provide them at actual cost. Therefore, "actual costs" and "reasonable charges" are the same for prosthetic devices and durable medical equipment.

Otherwise, outpatient facility charges consist of charges for outpatient services that vary by VA facility and by CPT procedure code. The calculation is based on the 1995 MedStat median billed facility charges for each CPT code for which outpatient facility charges apply, adjusted o the 80$^{th}$ percentile, with a trending provision to reflect appropriate economic changes for future periods, and adjusted for geographic area.

The rules contain provisions for multiple surgical procedures performed during the same outpatient encounter by a provider or provider team. Charges for second and subsequent surgical procedures during the same outpatient encounter are reduced consistent with industry practice.

The rules also clarify that outpatient facility charges would not be made for services customarily performed in an independent clinician's office, since such service would not usually create significant outpatient facility expenses.

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**Physician Charges**

Physician charges vary by VA facility and CPT code and are calculated using adjusted Relative Value Units (RVUs) to reflect the local market of each VA facility. For anesthesia and pathology, a slightly different formula is used, as those RVUs do not have separate physician work and physician practice components. The formulas are based on 1996-1997 data, and include trending provisions to reflect appropriate economic changes for future periods.
Care by optometrists and podiatrists are charged at the physician rate, and care by physician's assistants will be charged at 85% of the rate for all billable services.

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**Non-Physician Provider Charges**

Certain non-physician charges consist of percentages of physician charges. Charges for services by nurse practitioners, clinical nurse specialists, certified registered nurse anesthetists, clinical psychologists and clinical social workers are based on Medicare percentages. Chiropractor, dietician, and clinical pharmacists are based on the MedStat nationwide insurance database. Percentages are consistent with industry practices.

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**Access to Information**

Additional information on VA's reasonable charges, including Excel spreadsheets containing the nationwide charges and geographic area adjustment factors for specific VA facility locations is available on the Internet at the VA Medical Care Cost Recovery web site at http://www.va.gov/mccr. (Select "Reas Charges" button) Data will be updated annually.

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**Applicability**

These provisions apply to all FIC, FBIC and JALIC Group, Individual and Specialty Products.
While the billing practice should not affect how we pay claims, (we are still allowed to apply Reasonable and Customary limitations to submitted charges) it is important to know that the VA does reserve the right to require proof of the data upon which we base our R&C determinations.

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