

HEALTH CARE BENEFITS FOR COMBAT THEATER VETERANS

- 1. REASON FOR ISSUE:** This Veterans Health Administration (VHA) Directive establishes the policy for determining a Veteran's eligibility for enrollment in the Department of Veterans Affairs (VA) health care system as a "combat-theater" Veteran, i.e. one who served on active duty in a theater of combat operations during a period of war after the Persian Gulf War, or in combat against a hostile force during a period of hostilities after November 11, 1998.
- 2. SUMMARY OF CONTENT:** Section 1710(e)(1)(D) of title 38, United States Code (U.S.C.), provides that a Veteran who served on active duty in a theater of combat operations (as determined by the Secretary of Veterans Affairs, in consultation with the Secretary of Defense) during a period of war after the Persian Gulf War, or in combat against a hostile force during a period of hostilities after November 11, 1998, is eligible for hospital care, medical services, and nursing home care for any illness, even if there is insufficient medical evidence to conclude that such condition is attributable to such service. For purposes of this policy, such Veterans are referred to as "combat-theater Veterans." These Veterans have five (5) years from the date of discharge or release from the active military, naval, or air service to enroll in VA as a combat-theater Veteran. Veterans who were discharged or released from the active military, naval, or air service after January 1, 2009, and before January 1, 2011, but did not enroll to receive hospital care, medical services, or nursing home care during the five-year period described above, have an additional one-year period starting from February 12, 2015, within which to apply for enrollment as a combat-theater Veteran. All combat-theater Veterans described above will be enrolled in Priority Group 6 (unless a higher priority group applies).
- 3. RELATED ISSUES:** VA Directive 0007 and VHA Handbook 1303.2.
- 4. RESPONSIBLE OFFICE:** The Chief Business Officer (10NB) and the Chief, Public Health (10P3) are jointly responsible for the content of this Directive. Questions about combat Veteran's eligibility may be addressed to CBO at 202-382-2500. Questions about Veterans seeking treatment for health conditions claimed to be related to combat operations may be addressed to the Post Deployment Health Group (10P3A) at 202-461-1020.
- 5. RESCISSIONS:** VHA Directive 2008-054, dated September 9, 2008, is rescinded.
- 6. RECERTIFICATION:** This VHA Directive is scheduled for recertification on or before the last working day of June 2020.

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DISTRIBUTION: Emailed to the VHA Publications Distribution List on 6/25/2015.

HEALTH CARE BENEFITS FOR COMBAT THEATER VETERANS

1. PURPOSE: This Veterans Health Administration (VHA) Directive establishes the policies for determining eligibility for Department of Veterans Affairs (VA) health care benefits and copayment exemptions for recently discharged Veterans who are eligible for VA health care benefits and who served in a theater of combat operations during a period of war after the Persian Gulf War or during a period of hostilities after November 11, 1998. For purposes of this policy, all such Veterans are considered to be “combat-theater” Veterans. **AUTHORITY:** 38 U.S.C. 101(2), (21) and (24), 1705, 1710, 1712A, and 5303A.

2. BACKGROUND:

a. Section 1710(e)(1)(D) of title 38, United States Code (U.S.C.), provides that a Veteran who served on active duty in a theater of combat operations (as determined by the Secretary of Veterans Affairs, in consultation with the Secretary of Defense) during a period of war after the Persian Gulf War, or in combat against a hostile force during a period of hostilities after November 11, 1998, is eligible for hospital care, medical services, and nursing home care for any illness, even if there is insufficient medical evidence to conclude that such condition is attributable to such service. Copayments do not apply to inpatient and outpatient care and services, outpatient medications, and extended care services furnished to combat-theater Veterans for conditions related to such service. See Title 38 Code of Federal Regulations (CFR).17.108, 17.110, 17.111.

b. Hospital and nursing home care and medical services may not be provided under that specific authority, however, if the Veteran’s disability is found, in accordance with guidelines issued by the Under Secretary for Health, to have resulted from a cause other than service in a combat-theater. See 38 U.S.C. 1710(e)(2)(B). As a result, combat-theater Veterans who are treated for a condition that a VHA provider finds resulted from a cause other than combat service may be subject to copayment requirements in connection with that treatment.

c. Combat-theater Veterans who were discharged or released from active military, naval, or air service on or after January 28, 2003, and who are eligible for VA health care benefits are eligible to enroll in Priority Group (PG) 6 (unless eligible for a higher PG placement) for a period of five (5) years beginning on the date of the individual Veteran’s discharge or release from the active military, naval or air service. This 5-year enrollment period begins on the date of such discharge or release, or in the case of multiple call-ups, the most recent discharge or release date. See 38 U.S.C. 1705(a)(6), 1710(e)(3)(A); 38 CFR17.36(b)(6). Note however that if a Veteran was discharged or released from the active military, naval, or air service after January 1, 2009, and before January 1, 2011, but did not enroll to receive hospital care, medical services, or nursing home care during the five-year period described above, the Veteran has, by law, an additional one-year period within which to apply for enrollment in VA’s health care system as a combat-theater Veteran. This additional one-year period starts on February 12, 2015. After a combat-theater Veteran’s period of enrollment in PG6 ends,

the Veteran will remain continuously enrolled in VA's health care system but must be moved to the appropriate enrollment PG.

d. National Guard and Reserve members who were activated to serve in the Armed Forces and served in a combat theater of operations are eligible to receive health care benefits under 38 U.S.C. 1710(e)(1)(D) if they meet the definition of "Veteran" in 38 U.S.C. 101(2) and meet the minimum active-duty service requirement set forth in 38 U.S.C. 5303A (or are exempt from that statutory requirement).

3. POLICY:

a. Combat-theater Veterans, as described in 38 U.S.C. 1710(e)(1)(D), who timely apply for enrollment in VA's health care system are to be placed in PG 6 (unless eligible for higher PG placement) and are to receive copayment-free VA inpatient and outpatient care, outpatient medications, and extended care services for any condition that VA determines may be related to their service in a combat-theater, consistent with law. In addition, VHA will not bill third parties for the costs of such care or services. Copayments may apply, however, to VA care and services furnished for any condition that VHA determines is not related to such service; in these cases, third-party billing will occur.

b. Although combat-theater Veterans enrolled in PG 6 are not required to disclose income information during the enrollment process, intake staff are trained to clearly articulate the benefits of providing this income information. These benefits include the possibility that it may be determined they qualify for a higher enrollment PG assignment, are exempt from copayments for care and medication provided for treatment for conditions found by VHA to be unrelated to service in a combat-theater, or are eligible for beneficiary travel benefits. If the Veteran declines to provide income information, the Veteran must agree to pay any applicable copayments for care or services for any disability or condition that is found by VHA not to be related to his/her service in a combat-theater.

c. VHA clinicians have wide latitude in exercising clinical judgment in determining whether a Veteran's condition may be related to the Veteran's service in a combat-theater. This is strictly an individual clinical determination; as such, it is not subject to the same rigor or standards used by the Veterans Benefits Administration (VBA) in adjudicating a disability claim or awarding a service-connected rating. It therefore requires only a possibility in the clinical judgment of the Veteran's provider that the condition may be so related or associated; it does not provide definitive evidence of causation or association. As already stated, this is a determination solely within the medical judgment of the treating clinician. Pursuant to section 1710(e)(2)(B), the Under Secretary for Health has determined, however, that certain conditions may result from causes other than combat-service. These include, but are not limited to:

(1) Congenital or developmental conditions, e.g., scoliosis.

(2) Conditions which are known to have existed before military service unless there is an indication that the condition has been aggravated or exacerbated by combat service.

(3) Conditions having a specific and well-established etiology and that began after military combat service, e.g., bone fractures occurring after separation from military service, a common cold, etc.

NOTE: *If Complex Care Coordination is deemed necessary by VHA clinicians, the Memorandum of Understanding (MOU) Between VA and Department of Defense (DoD) For Interagency Complex Care Coordination Requirements for Service Members and Veterans, effective July 29, 2014, provides a common operational model and supporting responsibilities for which VA and DoD have agreed to adhere to concerning complex care coordination processes, referred to as Interagency Care Coordination Committee (IC3). For policy and assigned responsibilities with this MOU, see VA Directive 0007. This Directive is available on the VA Publications Web site at http://www.va.gov/vapubs/viewPublication.asp?Pub_ID=782&FTYPE=2. This is an internal VA Web site that is not available to the public.*

d. A VHA clinician must change the Combat Veteran treatment factor value in the Computer Patient Record System (CPRS) to “No” for that encounter and copayment charges may apply if the VHA clinician determines the condition resulted from a cause other than the Veteran’s service in a combat-theater.

e. After a combat-theater Veteran’s period of enrollment in PG 6 ends, the Veteran is to remain continuously enrolled in VA’s health care system but moved to the appropriate PG. If placed in a lower PG and/or depending on income level, the Veteran may be required to make applicable copayments in connection with the receipt of VA care and services (including the types of care and services previously furnished the Veteran at no-cost when he/she was enrolled in PG 6).

4. RESPONSIBILITIES:

a. **Under Secretary for Health.** The Under Secretary for Health has designated the Chief Business Officer (CBO) as the lead VHA officer for establishing policy in determining Veterans' eligibility for health benefits.

b. **Chief Business Office.**

(1) The Chief Business Office (CBO) or designee, in consultation with the Chief Public Health (10P3) and the Chief Readjustment Counseling Service Officer (10RCS), is responsible for providing guidance concerning locations, dates of service, and other criteria that are used to identify if an applicant’s service qualifies him/her as a combat-theater Veteran.

(2) The CBO is responsible for providing guidance relating to the evidence or documentation needed to determine a Veteran’s eligibility for combat-service related health benefits. **NOTE:** *Specific locations that have been designated as theaters of*

combat or areas subject to hostilities qualifying for combat-theater Veteran status are provided in Attachment A and will be updated as changes in combat-theater designations occur.

c. **Facility Director.** Each facility Director is responsible for ensuring that:

(1) Facility staff involved in the eligibility process and staff involved in the provision of health care services are provided guidance on verifying a combat-theater Veteran's eligibility and ensuring that eligible Veterans are enrolled in PG 6 and receive needed medical care and services for covered conditions at no cost.

(2) Appropriate staff are furnished Appendix A, which contains the locations and periods of service that qualify as theaters of combat operations and sets forth the evidence or documentation needed to establish a Veteran's service in a combat-theater. Specifically, proof of service in a theater of combat operations or in an area during a period of hostilities in that area will be established by:

(a) A DD Form 214 (Certificate of Release or Discharge from Active Duty) containing notations of service in a designated theater of combat operations; or

(b) Receipt of one of the following medals: The Armed Forces Expeditionary Medal, Service Specific Expeditionary Medal (e.g., Navy Expeditionary Medal), Combat Era Specific Expeditionary Medal (e.g., the Global War on Terrorism Expeditionary Medal), Campaign Specific Medal (e.g., Vietnam Service Medal or Iraq Campaign Medal), or other combat theater awards established by public law or executive order; or

(c) Proof of receipt of Hostile Fire or Imminent Danger Pay (commonly referred to as "combat pay") or combat tax exemption after November 11, 1998.

(d) Responsible staff ensure that combat-theater Veterans who seek VA health care after the enrollment period are appropriately enrolled using other eligibility options available to them, such as a compensable service-connected disability, VA pension status, catastrophic disability determination, or the Veteran's financial circumstances. Recently discharged combat-theater Veterans who believe they have no current or foreseeable need for VA medical care or services, should still be strongly encouraged to apply for enrollment in PG 6 as a combat-theater (within the applicable enrollment period) to preserve their future eligibility for enrollment in VA's health care system. This would prevent potential later exclusion due to the administrative ban on enrollment of new Veterans in PG 8.

(e) Responsible staff refer combat-theater Veterans, as appropriate and needed, to a Vet Center for readjustment counseling services, or if not eligible for VA readjustment counseling services, referral services to a community provider to obtain needed services at the Veteran's expense.

(f) Responsible staff provide needed emergency care and services to combat-theater Veterans who are ineligible for VA health care but who present to VA for needed

emergency care pursuant to VA's humanitarian treatment authority under 38 U.S.C § 1784 (subject to cost charges as required and set forth in VA rules and policy).

(g) Responsible staff encourage combat-theater Veterans who believe they incurred disabilities during service to file apply claims for disability with VBA.

NOTE: *Veterans Service Organizations can be of great value in assisting Veterans with this process.*

(h) VA Environmental Health Staff or other responsible officials encourage eligible Veterans to register in the Gulf War Registry. As described in VHA Handbook 1303.02, VA Environmental Health programs (formerly designated as Registry programs) may provide Gulf War Registry examinations and tests at no cost to eligible Veterans who request the examination/tests and who served on active military duty in Southwest Asia during the Gulf War (which began in 1990 and continues to the present). Registry exams/evaluations (including tests) are authorized by specific legal authority that is wholly independent of VA's treatment and enrollment authorities. Participation in the registry does not require enrollment in VA's health care system. See 38 CFR 17.37(i). The Gulf War Environmental Health program is described in VHA Handbook 1303.02, and is accessible on Web site <http://www.va.gov/GulfWar/>.

5. REFERENCES:

- a. VA Directive 0007.
- b. VHA Handbook 1303.2.
- c. VHA Handbook 1601A.02 and 1601A.03.
- d. 38 U.S.C. 101(2) (21), and (24); 1705, 1710; 1712A; 5303A; and 1784.
- e. 38 CFR 3.12, 17.37, 17.108, 17.110, 17.111, 17.2000.

**COMBAT VETERAN ELIGIBILITY DETERMINATION TABLE
COMBAT ZONES, HOSTILITIES, AND MEDALS**

The Department of Veterans Affairs (VA) utilizes the Department of Defense (DoD) "Combat Zones" listing of designated hostile fire or imminent danger pay areas. Although DoD Hostile Fire or Imminent Danger pay existed prior to November 11, 1998, only proof of such pay after November 11, 1998 is acceptable. **NOTE:** *The table provided at the link below should assist in the determination of combat Veteran eligibility.*

DEFINITIONS:

a. **Combat Veteran.** A combat Veteran is a Veteran who served on active duty in a theater of combat operations during a period of war after the Persian Gulf War or in combat against a hostile force during a period of hostilities after November 11, 1998.

b. **Combat Zones.** Combat zones are designated by an Executive Order from the President as areas in which the United States Armed Forces are engaging or have engaged in combat. An area usually becomes a combat zone and ceases to be a combat zone on the dates the President designates by Executive Order.

c. **Minimum Active Duty Service Requirement.** The minimum active duty service requirement is the shorter of the following two periods:

- (1) The full period for which they were enlisted, called or ordered to active duty, or
- (2) Twenty-four months of continuous active duty.

NOTE: *There remain categories of Veterans who are expressly excluded by statute from the minimum active duty service requirement; e.g., Veterans who were discharged or released from active duty for a disability incurred or aggravated in line of duty, those discharged or released from active duty under an early out or hardship discharge, etc.*

d. **Period of Hostilities.** The term "period of hostilities" is determined in consultation with the Secretary of Defense.

NOTE: *The term "hostilities" was previously defined in 38 U.S.C. 1712A(a)(2)(B) to mean "an armed conflict in which the members of the Armed Forces are subjected to danger comparable to the danger to which members of the Armed Forces have been subjected in combat with enemy armed forces during a period of war, as determined by the Secretary [of Veterans Affairs] in consultation with the Secretary of Defense." This definition was removed from 38 U.S.C. 1712A by section 727 of Public Law 112-239, the National Defense Authorization Act for Fiscal Year 2013.*

Proof of service in a theater of combat operations or in an area during a period of hostilities in that area will be established by:

(1) A DD Form 214 (Certificate of Release or Discharge from Active Duty) containing notations of service in a designated theater of combat operations; or

(2) Receipt of one of the following medals: The Armed Forces Expeditionary Medal, Service Specific Expeditionary Medal (e.g., Navy Expeditionary Medal), Combat Era Specific Expeditionary Medal (e.g., the Global War on Terrorism Expeditionary Medal), Campaign Specific Medal (e.g., Vietnam Service Medal or Iraq Campaign Medal), or other combat theater awards established by public law or executive order; or

(3) Proof of receipt of Hostile Fire or Imminent Danger Pay (commonly referred to as "combat pay") or combat tax exemption after November 11, 1998.

e. **Hostilities or Imminent Danger Pay.** Hostile fire pay is defined as pay to anyone exposed to hostile fire or mine explosion, while imminent danger pay is paid to anyone on duty outside the United States area who is subject to physical harm or imminent danger due to wartime conditions, terrorism, civil insurrection, or civil war.

f. **Medals.** Afghanistan Campaign Medal, Iraq Campaign Medal, Armed Forces Expeditionary Medal; Global War on Terrorism Expeditionary Medal (does not include Global War on Terrorism Medal); Kosovo Campaign Medal; Southwest Asia Campaign Medal; and other DOD-authorized combat related medals.

NOTE: This listing is current as of the date of publication of this Directive. For the most current listing see <http://www.va.gov/healthbenefits/resources/publications.asp>