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National Veterans Affairs and Rehabilitation Commission
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VA Updates Medication Co-payments

The Veterans Health Administration (VHA) of the Department of Veterans Affairs (VA) has provided updates to their existing policy for charging certain veterans co-payments for medication received on an outpatient basis for non-service connected conditions.

VA has authority in Title 38 (U.S.C.) 1722A (b) to increase the medication co-payment amount and to establish an annual cap on the amount of medication co-payments charged to certain priority groups. VA is required by law to charge certain veterans a co-payment for each 30-day or less supply of medication provided on an outpatient basis (other than medication administered during treatment) for treatment of a non-service connected condition. The medication co-payment will not be charged for medication that is exempt from the co-payment under Title 38 Code of Federal Regulations (CFR) 17.110(c).

By regulation 38 CFR 17.110, VA established an annual cap to help eliminate financial hardships for veterans enrolled in Priority groups (Priority Groups 2, 3, 4, 5, and 6) who may require unusually large amounts of medication. When veterans reach the annual cap, they continue to receive medications without making a co-payment. The law also provides a formula for the calculation of the necessary co-payments.

Based on this formula, the medication co-payment rate for calendar years 2006 through 2009 was $8. Additionally, the medication co-payment cap for veterans in Priority Groups 2-6 for calendar years 2006 through 2009 was $960. Using this formula, the co-payment would have increased to $9 effective January 1, 2010. However, in an Interim Final Rule published in the Federal Register Volume 74, page 69283, on December 31, 2009. VA temporarily froze the $8 medication co-payment and the co-payment cap for 6 months for Priority Groups 2-8.

VA responded to public comments regarding the Interim Final Rule and affirmed that rule as final in the Federal Register Volume 75, pages 32668, on June 9, 2010. On June 9, 2010, VA also published another Interim Final Rule, Volume 75, pages 32670, which continued the medication co-payment amount at the $8 rate for veterans in Priority Groups 2 through 6 from July 1, 2010, through December 31, 2011, and continued the annual cap of $960 per calendar year. Additionally, this rule allowed an increase in the medication co-payment rate for Veterans in Priority Groups 7 and 8 from $8 to $9 for this same period. There has never been a co-payment cap for this group of veterans.

The effective date of these changes is July 1, 2010, and these rates will remain in place through December 31, 2011. In the interim, VHA has stated that they will ascertain whether there might be better indicators upon which the co-payment amounts can be based in order to ensure certain veterans with greater need for medical care and lower income do not face significant financial hardships.

Ultimately the VHA policy states that (effective July 1, 2010) veterans in Priority Groups 2 through 6 must pay $8 for each 30-day supply of outpatient medication prescribed for non-service connected conditions with annual cap of $960. Veterans in Priority Group 7 and 8 must pay $9 for each 30-day supply of outpatient medication prescribed for a non-service connected condition with no annual co-payment cap. The medication co-payment is not charged for medication that is exempt from the co-payment under 38 CFR 17.110(c).

Further questions regarding co-payment amounts for medications for veterans should be directed to Jacob Gadd, Deputy Director for Health Care at jgadd@legion.org or by phone at (202) 861-2700.

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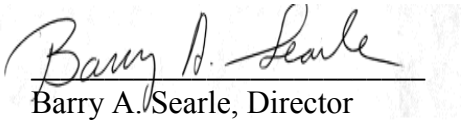

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