



[Docket No. VA-2026-VACO-0002]

Implementation of Section 120 of the Senator Elizabeth Dole 21st Century

Veterans Healthcare and Benefits Improvement Act

AGENCY: Department of Veterans Affairs.

ACTION: Notification of sub-regulatory guidance.

SUMMARY: This notice informs the public of the Department of Veterans Affairs (VA) implementation of section 120 of the Senator Elizabeth Dole 21st Century Veterans Healthcare and Benefits Improvement Act, which allows VA to increase the expenditure cap for non-institutional care alternatives for eligible veterans.

DATES: This guidance is effective on September 11, 2025.

FOR FURTHER INFORMATION CONTACT: Daniel Schoeps, Director, Purchased Long Term Services and Supports, Office of Geriatrics and Extended Care, Veterans Health Administration, (202) 461-6750.

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). Pub. L. 118-210. Section 120(a) of the Act amended 38 U.S.C. 1720C(d), which generally governs the provision of non-institutional care alternatives for eligible veterans. Under this amendment, VA may pay up to 100% of the cost that would otherwise have been incurred by VA during that fiscal year if the veteran had been furnished, instead, nursing home care under 38 U.S.C. 1710 during that fiscal year. The cost of nursing home care is established for each Veterans Integrated Service Network based on the cost of care in a community living center and published each year by the Office of Geriatrics and Extended Care. Section 120(a) further amended section 1720C(d) to permit VA to exceed this payment cap for certain veterans if VA determines, based on a consideration of clinical need, geographic market factors, and

such other matters as VA may prescribe through regulation, that such higher total cost is in the best interest of the veteran. Veterans eligible for non-institutional care costs in excess of the nursing home care rate are those with amyotrophic lateral sclerosis (ALS), a spinal cord injury, or a condition VA determines to be similar to such conditions.

Before the amendments made by section 120 of the Act, VA was limited to paying no more than 65% of the nursing home rate. Historically, VA has found that a small number of veterans each year encountered this 65% cap. When veterans reached this cap, they were required either to assume liability for the cost of their care for the remainder of the fiscal year or to be admitted for nursing home care. This sometimes resulted in care disruption, greater stress on veterans and their families, or both. In VA's experience, the clinical need for non-institutional care is the sole factor that has resulted in veterans reaching the prior 65% cap, and the vast majority of those who would reach this 65% cap would have all of their non-institutional care needs met for costs less than 100% of the nursing home rate.

VA is informing the public of its approach to implementing four aspects of these new authorities.

- Beginning September 11, 2025, VA will pay up to 100% of the nursing home rate in a fiscal year for all eligible veterans who need non-institutional care to improve continuity of care and patient outcomes. VA may pay for non-institutional care constituting Homemaker/Home Health Aide, Home Respite, Community Adult Day Health Care, Veteran Directed Care, Skilled Home Health Care, and Program of All-Inclusive Care for the Elderly.

- For veterans whose non-institutional care needs exceed 100% of the nursing home rate, VA will approve such additional expenditures on a case-by-case basis informed by a clinical review of the veteran's needs. VA anticipates that the only veterans who may require non-institutional care that would cost more than 100% of the

nursing home rate would be veterans with ALS or spinal cord injuries or disorders; however, VA will still consider, and may pay costs for non-institutional care in excess of 100% of the nursing home rate for veterans who do not have ALS or a spinal cord injury or disorder because the statute permits VA to do so if the veteran has “a condition the Secretary determines to be similar to such conditions.” See 38 U.S.C. 1720C(d)(2)(B). Veterans whose care needs would exceed 100% of the nursing home rate have a high need for skilled home nursing care and are often dependent on ventilators to breathe, which is why their costs for care may be higher. These veterans can still live safely in their homes, but they do require additional care and services that can result in higher costs. Remaining in their homes, though, can improve their quality of life and overall health outcomes as well, so there is value in keeping these veterans in non-institutional settings. Such options for care also promote veterans’ choice in where to live and how to receive their care. VA anticipates fewer than 30 veterans in a fiscal year will require non-institutional care that would result in costs in excess of 100% of the nursing home rate, and VA will review these on a case-by-case basis to determine the clinical need for and appropriateness of additional non-institutional care.

At this time, VA is not exercising its authority to establish through regulation other matters that VA may consider in exceeding 100% of the nursing home 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).

- VA is also not specifically incorporating any additional geographic market factors in its analysis because the nursing home care rate already is determined on a regional level and includes consideration of geographic market factors. Consideration of geographic market factors through another basis than the calculation of the nursing home rate or using another metric would be redundant.

This notice provides information on how VA is implementing section 120 of the Act and is not a solicitation for public comment or request for information regarding VA's implementation of section 120 of the Act, as outlined above. Therefore, responses to this notice may not be used to inform VA's implementation of section 120 of the Act, and VA will not address such responses.

SIGNING AUTHORITY

Douglas A. Collins, Secretary of Veterans Affairs, approved this document on December 18, 2025 and authorized 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.

Nicole R. Cherry,

Alternate Federal Register Liaison Officer, Department of Veterans Affairs.

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