OFFICE OF MANAGEMENT AND BUDGET

Charges to Tortiously Liable Third Parties for Hospital, Medical, Surgical, and Dental Care and Treatment Furnished by the United States (Department of Veterans Affairs)

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Notification of charges to tortiously liable third parties for hospital, medical, surgical, and dental care and treatment furnished by the Department of Veterans Affairs.

SUMMARY: By virtue of the authority vested in the President by section 2(a) of the Federal Medical Care Recovery Act, Public Law 87–693 (76 Stat. 593; 42 U.S.C. 2652), and delegated to the Director of the Office of Management and Budget by Executive Order No. 11541 of July 1, 1970 (35 FR 10737), the charges to tortiously liable third parties for hospital, medical, surgical, and dental care and treatment (including prostheses and medical appliances) furnished by the Department of Veterans Affairs are the ''reasonable charges'' generated by the methodology set forth in 38 CFR 17.101 and published from time to time in the **Federal Register**, most recently on April 29, 2003 (68 FR 22774). These charges are for use in connection with the recovery from tortiously liable third persons of the reasonable value of hospital, medical, surgical, and dental care and treatment furnished by the United States through the Department of Veterans Affairs (28 CFR 43.1–43.4). These charges have been established in accordance with the requirements of OMB Circular A–25, which requires charges that are at least as great as the full cost of the services provided

There are two basic reasons for this change. First, VA's community-based ''reasonable charges'' more accurately reflect the reasonable value of the medical care and treatment furnished by VA to the injured person, consistent with 42 U.S.C. 2651 and 2652, than do VA's cost-based *per-diem* tort rates.

Second, VA's present dual-rate billing system (tort feasor and health plan), using significantly different charges, is confusing and difficult to justify. VA claims, for example, may be made both against the tort feasor who caused the injury, using the current FMCRA *per-diem* rates, and against the veteran's health plan, using the significantly higher reasonable charges, for the same VA medical care. This not only is confusing to VA billing officials and

makes settling claims more difficult, but such dual billing also may disadvantage veterans by providing a *per-diem* rate bill to assert against the tort feasor while exposing veterans to subrogation claims from their health plans who paid at the higher reasonable charges rates. Making the charges billed to all liable parties in FMCRA cases uniform will eliminate confusion and remove an impediment to allowing injured veterans to assert the higher reasonable charges rates for their causally related health care as a necessary and proper element of damages in their cases against the responsible tort feasors.

Beginning on January 7, 2004, the charges prescribed herein supercede those established by the Director of the Office of Management and Budget for the Department of Veterans Affairs on November 1, 1999 (64 FR 58862).

Joshua B. Bolten,
Director.
[FR Doc. 04–317 Filed 1–6–04; 8:45 am]
BILLING CODE 3110–01–P

OFFICE OF MANAGEMENT AND BUDGET

DEPARTMENT OF VETERANS AFFAIRS

Cost-Based and Interagency Billing Rates for Medical Care or Services Provided by the Department of Veterans Affairs

AGENCIES: Office of Management and Budget, Executive Office of the President and the Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: This document provides cost-based and interagency billing rates for medical care or services provided by the Department of Veterans Affairs (VA):
  (a) In error or on tentative eligibility;
  (b) In a medical emergency;
  (c) To pensioners of allied nations;
  (d) For research purposes in circumstances under which VA medical care appropriation is to be reimbursed by VA research appropriation; and
  (e) To beneficiaries of the Department of Defense or other Federal agencies, when the care or service provided is not covered by an applicable sharing agreement.

In addition, until such time as charges for outpatient dental care and prescription drugs are implemented under the provisions of 38 CFR 17.101, the applicable cost-based billing rates provided in this notice will be used for collection or recovery by VA for outpatient dental care and prescription

drugs provided under circumstances covered by that section. This notice is issued jointly by the Office of Management and Budget and the Department of Veterans Affairs.

EFFECTIVE DATE: The rates set forth herein are effective January 7, 2004, and until further notice.

FOR FURTHER INFORMATION CONTACT: David Cleaver, Chief Business Office (168), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 254–0361. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: VA's medical regulations at 38 CFR 17.102(h) set forth a methodology for computing rates for medical care or services provided by VA:
  (a) In error or on tentative eligibility;
  (b) In a medical emergency;
  (c) To pensioners of allied nations;
  (d) For research purposes in circumstances under which VA medical care appropriation is to be reimbursed by VA research appropriation; and
  (e) To beneficiaries of the Department of Defense or other Federal agencies, when the care or service provided is not covered by an applicable sharing agreement.

Two sets of rates are obtained via application of this methodology: Cost-Based Rates, for use for purposes (a) through (d), above, and Interagency Rates, for use for purpose (e), above. Government employee retirement benefits and return on fixed assets are not included in the Interagency Rates, and the Interagency Rates are not broken down into three components (Physician; Ancillary; and Nursing, Room, and Board), but in all other respects the Interagency Rates are the same as the Cost-Based Rates.

When medical care or service is obtained at the expense of the Department of Veterans Affairs from a non-VA source under circumstances in which the Cost-Based or Interagency Rates would apply if the care or service had been provided by VA, then the charge for such care or service will be the actual amount paid by VA for that care or service.

Inpatient charges will be at the per diem rates shown for the type of bed section or discrete treatment unit providing the care. Prescription Filled charge in lieu of the Outpatient Visit rate will be charged when the patient receives no service other than the Pharmacy outpatient service. This charge applies whether the patient receives the prescription in person or by mail.

Current rates obtained via the above methodology are as follows:

	Cost-based rates	Interagency rates
A. Hospital Care, Rates Per Inpatient Day		
General Medicine:		
All Inclusive Rate	$1,815	$1,668
Physician	217	....
Ancillary	473	....
Nursing, Room, and Board	1,125	....
Neurology:		
All Inclusive Rate	2,289	2,098
Physician	335	....
Ancillary	604	....
Nursing, Room, and Board	1,350	....
Rehabilitation Medicine:		
All Inclusive Rate	1,723	1,574
Physician	196	....
Ancillary	526	....
Nursing, Room, and Board	1,001	....
Blind Rehabilitation:		
All Inclusive Rate	1,254	1,162
Physician	101	....
Ancillary	623	....
Nursing, Room, and Board	530	....
Spinal Cord Injury:		
All Inclusive Rate	1,237	1,136
Physician	153	....
Ancillary	311	....
Nursing, Room, and Board	773	....
Surgery:		
All Inclusive Rate	3,513	3,255
Physician	387	....
Ancillary	1,065	....
Nursing, Room, and Board	2,061	....
General Psychiatry:		
All Inclusive Rate	971	888
Physician	92	....
Ancillary	153	....
Nursing, Room, and Board	726	....
Substance Abuse (Alcohol and Drug Treatment):		
All Inclusive Rate	1,206	1,106
Physician	115	....
Ancillary	279	....
Nursing, Room, and Board	812	....
Psychosocial Residential Rehabilitation Treatment Programs:		
All Inclusive Rate	276	252
Physician	17	....
Ancillary	29	....
Nursing, Room, and Board	230	....
Intermediate Medicine:		
All Inclusive Rate	801	733
Physician	39	....
Ancillary	118	....
Nursing, Room, and Board	644	....
B. Nursing Home Care, Rates Per Day		
All Inclusive Rate	451	411
Physician	14	....
Ancillary	61	....
Nursing, Room, and Board	376	....
C. Outpatient Medical and Dental Treatment		
Outpatient Visit (other than Emergency Dental)	300	282
Emergency Dental Outpatient Visit	185	167
D. Prescription Filled, Per Prescription	45	45

Beginning on the effective date indicated herein, these rates supercede those established for the Department of Veterans Affairs by the Director of the Office of Management and Budget on November 1, 1999 (64 FR 58862).

Approved: September 17, 2003.

Anthony J. Principi,

Secretary, Department of Veterans Affairs.

Approved: December 30, 2003.

Joshua B. Bolten,

Director, Office of Management and Budget.

[FR Doc. 04–318 Filed 1–6–04; 8:45 am]

BILLING CODE 3110–01–P