

**Supporting Statement for Collection or Recovery by VA for Medical Care or Services  
Provided or Furnished to a Veteran for a Nonservice-Connected Disability  
38 CFR 17.101 (a) (4)  
2900-0606**

**A. JUSTIFICATION**

**1. Explain the circumstances that make the collection of information necessary. Identify legal or administrative requirements that necessitate the collection of information.**

Public Law 105-33 amended the statutory provision of 38 U.S.C. 1729 to authorize VA to bill “reasonable charges” instead of “reasonable cost” for medical care or services provided or furnished to a Veteran:

(a) 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;

(b) 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

(c) For a non-service connected disability incurred as a result of a motor vehicle accident in a State that requires automobile accident reparations insurance.

“Reasonable charges” are collected from available data (that includes complexity of care, degree of skill, provider specialty, and third party payer prevailing charges in other area) to set the local market charges for each geographic area where VA provides care. “Reasonable cost”, on the other hand, does not factor all of these criteria and can impact the amount reimbursed to the VA. In the circumstances described above, third party payers set their allowable rate structure for compensable care based on their payment methodology, thus the importance in obtaining this information to ensure VA is reimbursed similarly to non-government entities. VA also utilizes reasonable charges to settle subrogated claims for worker’s compensation or motor vehicle accidents.

**2. Indicate how, by whom, and for what purposes the information is to be used; indicate actual use the agency has made of the information received from current collection.**

Under the provisions of 38 CFR, Section 17.101(a)(4), entitled “Amount of Recovery or Collection - Third Party Liability”, a third-party payer that is liable for reimbursing VA for health care VA provided to Veterans with non- service-connected conditions continues to have the option of paying either the billed charges as described in Section 17.101 or the amount the health plan demonstrates it would pay to providers other than entities of the United States for the same care or services in the same geographic area. If the amount submitted for payment is less than the amount billed, VA will accept the submission as payment, subject to verification at VA’s discretion. A VA employee having responsibility for collection of such charges may request that the third party payer submit evidence or information to substantiate the appropriateness of the payment amount (e.g., health plan policies, provider agreements, medical evidence, proof of payment to other providers demonstrating the amount paid for the same care and services VA provided). This information would be needed to determine whether the third-party payer has met the test of properly demonstrating its equivalent private sector provider payment amount for the same care or services and within the same geographic area as provided by VA. This form provides for requesting patient medical records, health

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plan policies, provider agreements and any type or records that provide evidence of medical services and proof of payments made to others for the same medical care and services.

If VA accepts the submitted payment that is less than the billed charges, the third party payer can be subject to rate verification. In the event that rate verification is conducted, the results can be used to negotiate better rates, recoup underpayments, or amend agreements. Absent a third party payer agreement, VA should also be reimbursed billed charges or the amount third party payers would pay to non-government entities.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also described any consideration of using information technology to reduce burden.**

The collection of information does not involve the use of automated, electronic, mechanical, or other technological collection techniques. Additionally, VA determined that automating this data collection is not economically feasible. Actual claims data has to be collected from various 3<sup>rd</sup> Party payers in various locations. When VA provides the data, medical records have to be pulled on a claim by claim basis. In order for this to be done electronically VHA systems would have to be set up to allow for patient records and physician documentation to be pulled automatically from various systems. VA believes there has to be some manual intervention to obtain the records from various data systems.

The requested claims data used to determine if VA is being reimbursed similarly with other non-government entities in the same geographic area requires a large sample that would yield a statistically valid sample to deduce or confirm appropriate reimbursement. The third party payer can provide the data to VA; however, the VA does not have the capacity to store large volume of data for the purpose of data analysis. VA can, however, if given the access to third party payer's database, analyze claims data that has been compiled electronically or through automation.

**4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.**

This information is not available elsewhere and there is no duplication. In order to make the comparison of the 3<sup>rd</sup> Party Payer data to VA data VA has to make sure we are comparing the same medical services provided in the same graphical area for the same timeframe. There are adjustments to the billable charges and collections for the areas in which the Veteran is provided care. Therefore, the records being evaluated for comparison are unique and one of a kind patient claim data. The reimbursement received from the payer has to be based on the same geographical area for the same timeframe to judge if the 3<sup>rd</sup> Party payers are paying us the same as the pay others in the community for the same care. This information that is collected from the 3<sup>rd</sup> Party Payers has to be based on the same type of medical care rendered using the same MS-DRG, CPT and HCPCS codes for the same timeframe and for the same locality in order to compare reimbursement we receive to VA.

**5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.**

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No small businesses or other small entities are impacted by this information collection.

**6. Describe the consequences to Federal program or policy activities if the collection is not conducted or is conducted less frequently as well as any technical or legal obstacles to reducing burden.**

If the collection were not conducted, VA would not be able to determine whether the third-party payer has met the test of properly demonstrating its equivalent private sector provider payment amount for the same care or services and within the same geographic area as provided by VA. This would also create disparate provider reimbursement to VA from third party payers and set precedence for non-competitive pricing for care or services rendered to Veterans with non-service connected conditions.

**7. Explain any special circumstances that would cause an information collection to be conducted more often than quarterly or require respondents to prepare written responses to a collection of information in fewer than 30 days after receipt of it; submit more than an original and two copies of any document; retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years; in connection with a statistical survey that is not designed to produce valid and reliable results that can be generalized to the universe of study and require the use of a statistical data classification that has not been reviewed and approved by OMB.**

The information collection is in accordance with 5 CFR 1320.6.

**8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the sponsor's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the sponsor in responses to these comments. Specifically address comments received on cost and hour burden.**

The notice of Proposed Information Collection Activity was published in the Federal Register on June 6, 2014 (Vol. 79, page 32822). We received no comments in response to this notice.

**9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

No payment or gift is provided to respondents.

**10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.**

Assurance of confidentiality is contained in Title 38, U.S.C., Sections 5701 and 7332. The records are maintained in the Privacy Act System of records identified as 24VA136, Patient Medical Records-VA as set forth in the 2003 Compilation of Privacy Act Issuances via online GPO access at [http://www.access.gpo.gov/su\\_docs/aces/2003\\_pa.html](http://www.access.gpo.gov/su_docs/aces/2003_pa.html)

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private; include specific uses to be made of the information, the explanation to be given to**

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persons from whom the information is requested, and any steps to be taken to obtain their consent.

There are no questions of a sensitive nature.

**12. Estimate of the hour burden of the collection of information:**

- a. Number of respondents is estimated at 400 per year.
- b. Frequency of response is once per year.
- c. Estimated average burden per respondent is 2 hours.
- d. Annual burden is 800 hours.
- e. Estimated cost to respondents is \$19,200 (800 hours x \$24 per hour).

**13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).**

This submission does not involve any recordkeeping requirements.

**14. Provide estimates of annual cost to the Federal Government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operation expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information.**

The estimated annual cost to the Federal Government is \$940.20. This includes estimated time that is spent per document to read the request for medical records and respond.

	Salary	Responses	Equals	Minutes	÷ by 60	Total
Admin Process (2014 GS - 5 Step 5) Super.	\$18.69*	400	\$7,400	3	60	\$373.80
Review (2014 GS - 9 Step 5)	\$28.32*	400	\$11,216	3	60	<u>\$566.40</u>

\*Washington locality area salaries.

<http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2014/general-schedule/>

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**15. Explain the reason for any changes in Items 13 or 14 of the OMB 83-1.**

There is no change in burden.

**16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.**

There are no plans to publish the results of the information collected.

**17. If seeking approval to omit the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

VA does not seek approval to omit the expiration date for OMB approval.

**18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB 83-I.**

There are no exceptions to the certification statement.

**B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

No statistical methods are used in this data collection.