

**Department of
Veterans Affairs**

Memorandum

Date: **JUL 24 2014**

From: Interim Under Secretary for Health

Subj: Decision Document – Request Approval for VHA to Discontinue Net Worth Information Collection

To: Acting Secretary

1. ISSUE

On April 18, 2014, VHA briefed the Secretary to request approval to discontinue the collection and use of a Veteran's net worth information for purposes of establishing eligibility for VA health care enrollment. The Secretary provided conditional approval based on VHA's follow up with the Department of Defense (DoD) and Veterans Benefit Administration (VBA):

- a. Follow up with DoD to determine how net worth information is used in making benefit decisions; and
- b. Contact VBA regarding whether the collection and use of net worth information should be removed from VBA's Pension eligibility decision.

2. BACKGROUND

VHA currently collects income and asset information from Veterans who are not otherwise eligible for health care. The calculation that is involved in determining their enrollment status is known as a "net worth" determination. VHA believes this process leads to inequity with regard to enrollment and access to medical care and requested approval from the Secretary to discontinue the use of Veteran's net worth information for purposes of VA health care enrollment.

As requested, VHA reached out to DoD and VBA officials to address the issues raised by the Secretary on April 18, 2014. The following information is provided:

- a. DoD: VHA contacted DoD officials and reviewed qualifications for DoD need-based benefits. No DoD benefits have been identified that include an evaluation of an individual's net worth.
- b. VBA: VHA contacted Mr. David McLenachen, Director, Pension and Fiduciary Service, VBA to discuss whether the collection and use of net worth information could be removed from VBA's Pension eligibility decision. Mr. McLenachen clarified that VBA has a statutory requirement, under Title 38 U.S.C. 1522 and 1543, to deny or discontinue the payment of pension when it is reasonable that some part of the corpus of estate be consumed for the Veteran's or individual's maintenance, while VHA has discretion under Title 38 U.S.C 1722(d)(1) to consider net worth when determining a Veteran's access to health care.

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3. POLICY AND PROCESS CHANGES:

As presented to the Secretary, upon approval VHA will enact the following changes:

- Modify regulations concurrently with implementation.
- Implement information system changes.
- Modify paper and online VA Forms 10-10EZ and 10-10EZR to remove net worth collection.
- Execute a communications plan to inform internal and external stakeholders.

4. OPTIONS AND ANALYSIS:

VBA and VHA utilize different authorities for the collection and use of net worth information and have different purposes for collecting this information. VBA is mandated to collect and use net worth information to determine eligibility for payment of VA Pension benefits under Title 38 U.S.C. 1522 and 1543. Title 38 U.S.C. 1722(d)(1) provides the Secretary discretion to consider a Veteran's net worth when determining the Veteran's eligibility for health care enrollment.

OPTION A: Discontinue collection and use of net worth information for the purposes of establishing eligibility for VA health care enrollment; as per statutory authority VBA will continue to utilize net worth in determining eligibility for Pension benefits.

Arguments Pro:

- Resolves inequity with regard to enrollment and access to medical care and service for Veterans
- Establishes financial based health benefits on verifiable income information
- Simplifies training and communication for enrollment
- Requires minor changes to systems, policies or processes

Arguments Con:

- Possible confusion among Veterans concerning inconsistent collection and use of net worth information within VA

OPTION B: Maintain Status Quo –VBA and VHA will continue to collect and use net worth information for the purposes of establishing eligibility for VA benefits

Arguments Pro:

- Consistency of collection and use of net worth information for VA benefits eligibility
- No changes to systems, policies or processes

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Arguments Con:

- Continued inequity with regard to enrollment and access to medical care and service for Veterans
- Does not establish financial based health benefits on verifiable income information
- Training and communication for enrollment remains complex for both Veterans and staff

5. RECOMMENDATION:

VHA recommends that the Secretary exercise discretionary authority to approve VHA's request to discontinue the collection and use a Veteran's net worth information for purposes of VA health care enrollment.




Carolyn M. Clancy, MD

DECISION:

APPROVE / DISAPPROVE



Robert A. McDonald

Date

ATTACHMENTS:

- SECVA Briefing presented April 18, 2014 - Request for Approval to Discontinue Net Worth Information Collection
- April 18, 2014 Briefing Minutes



Request for Approval to Discontinue Net Worth Information Collection

Veterans Health Administration
Chief Business Office (10NB)



VA Defining
HEALTH CARE EXCELLENCE
in the 21st Century

Purpose

To brief the Secretary and gain his approval in discontinuing the collection and use of Veteran's net worth information for purposes of VA health care enrollment.

Agenda

1. Introduction
2. Legal Authority
3. Concerns with VHA's Net Worth Approach
4. Options with Pros and Cons
5. Recommendation
6. Implementation Plan

1. Introduction

- VHA currently collects income and asset information from Veterans who are not otherwise eligible for health care.
- A calculation that is involved in determining their enrollment status is known as a “net worth” determination.
- VHA believes this process leads to inequity with regard to enrollment and access to medical care and services.
- VHA therefore requests approval from SECVA to discontinue the collection and use of Veteran’s net worth information for purposes of VA health care enrollment.
- Instead, VHA proposes to establish eligibility for care based on income information.

2. Legal Authority

- Under 38 U.S.C. 1722 VA has authority to place Veterans who would otherwise be categorized in Priority Group 7 or 8 into a low income eligible category (Priority Group 5) if VA determines they are unable to defray the expenses of necessary care.
 - The financial evaluation process includes consideration of the Veteran’s income under 38 U.S.C. 1722(a)(3) as well as consideration of the value of the estate of the Veteran under 38 U.S.C. 1722(d)(1).
- OGC Advisory Opinion 3-2009 states: “There is no language in section 1722 (d)(1) that requires the Secretary to take any action. Rather, section 1722(d)(1) allows the Secretary to consider a Veteran’s net worth. Thus it is our opinion that section 1722(d)(1) does not require the Secretary to consider a Veteran’s net worth when determining whether the Veteran is unable to defray the expenses of necessary care.”

3. Concerns with VHA's Net Worth Approach

- The level of the net worth limit is unfair to current Veterans**

 - The current threshold \$80k has not been increased in 12 years. Small amounts of assets can move a Veteran into a higher Priority Group with higher copays.
 - The threshold is not adjusted for household size.
- VHA and VBA are Inconsistent in Approach**

 - VBA uses the net worth threshold as an independent financial variable for pension purposes while VHA combines it with income in determining eligibility for care and copayments.
 - VBA and VHA treat Veterans with the same income and assets differently depending on their wartime service. The table below illustrates how VBA considers the Veteran indigent while VHA considers the Veteran to have enough resources to pay copayments for care.

Scenario	Income	Assets	VBA Pension	VHA Enrollment Determination	Medical Care and Medication Copayment Status
Veteran 1 (Wartime service)	\$12,000	\$79,999	Yes	Priority Group 5 based on VA Pension status	Exempt
Veteran 2 (No wartime service)	\$12,000	\$79,999	No	Priority Group 8 based on income + assets > \$80k	Non-Exempt

3. Accuracy of Data in Current Process is Questionable

- Asset values are subjective and difficult to verify.

4. Options to resolve Concerns with VHA's Net Worth Approach

Option 1: Increase VHA's net worth threshold from \$80,000 to \$250,000

- **Pros:**
 - Improves enrollment processes for qualifying Veterans
 - Corrects inherent inequities in assessing eligibility for access to VA health care system
 - Lessens out-of-pocket expenses for lower income Veterans
- **Cons:**
 - Potential 1st party (copayments) revenue loss of \$8.1 million annually; \$40.5 million over 5 years
 - Requires regulatory construction/Administrative Procedure Act
 - Assets are subjective and difficult to verify

Option 2: Adopt VBA's formula of treating income and net worth separately for purposes of VA health care enrollment

- **Pros:**
 - Aligns financial threshold development with VBA
 - May lessen out-of-pocket expenses for lower income Veterans
- **Cons:**
 - Potential 1st party (copayments) revenue loss of \$2.6 million annually; \$13 million over 5 years
 - Assets are subjective and difficult to verify

4. Options to resolve Concerns with VHA's Net Worth Approach

Option 3: Discontinue the collection and use of Veteran's net worth information for purposes of VA health care enrollment

- **Pros:**
 - Positively impacts 53k Veterans first year; 135k Veterans over 5 years
 - Simplifies enrollment process
 - Established financial based health benefits on verifiable income information
 - Lessens out-of-pocket expenses for lower income Veterans
 - Eliminates net worth adjudication referrals to VBA
 - Responsive to current political and economic climate
 - Reduces paperwork burden (10-10EZ/EZR) as reported to public through OMB
 - No impact on third party health plan billings
- **Cons:**
 - Estimated budget increase of \$15million annually and \$80 million of 5 years; excludes administrative savings from redirection of staff collecting and adjudicating net worth
 - Veterans with excessive net worth may gain access to VA health care benefits package
 - One time training and communication costs

4. Options to resolve Concerns with VHA's Net Worth Approach

Option 4: Maintain Status Quo

- **Pros:**
 - No changes to systems, policies or processes
 - No impact on current 1st party copay collections
- **Cons:**
 - Not responsive to Veterans whose net worth must diminish over time in order to maintain access to the copay waiver
 - Continued inequitable distribution of access to care for some Veterans
 - Continued discrepancies with VBA
 - Assets are subjective and difficult to verify

5. Recommendation

Option 3: Discontinue the collection and use of Veteran's net worth information for purposes of VA health care enrollment

- Corrects inherent inequities in assessing eligibility for access to VA health care system
- Provides consistency with VBA and other federal agencies
- Reduces administrative burden on Veterans and VHA staff (brings efficiency to process)
- Established financial based health benefits on verifiable income information

6. Implementation Plan

Upon SECVA approval, VHA would be prepared to implement net worth collection changes as early as January 2015, including:

- Modify regulations concurrently with implementation (discretionary authority).
- Implement information system changes.
- Modify paper and online VA Forms 10-10EZ and 10-10 EZR to remove net worth collection.
- Develop and execute communications plan to inform internal and external stakeholders. Plan will feature outreach to Veterans assigned to Priority Group 7 or 8 based on net worth to encourage submission of updated financial information for eligibility reassessment.

Department of Veterans Affairs (VA)
Request for Approval to Discontinue Net Worth Information Collection
April 18, 2014
Minutes

Attendees:

Honorable Eric K. Shinseki, Secretary, Department of Veterans Affairs, VA
Mr. Jose D. Riojas, Chief of Staff, Department of Veterans Affairs, VA
Joseph Dalpiaz, Acting Deputy Under Secretary for Health for Operations & Management, VHA
Stephanie Mardon, Acting Chief Business Officer, VHA
Lynne Harbin, Deputy Chief Business Officer, VHA
John Spinelli, Special Advisor to Secretary VA,
Susan Blauert, Deputy Assistant General Counsel
Bill Walsh, Director, Office of Budget, VA
Nancy Lee, Communications Officer, Chief Business Office (note taker)

Purpose:

To brief the Secretary and gain his approval in discontinuing the collection and use of Veteran's net worth information for purposes of VA health care enrollment.

Background:

VHA currently collects income and asset information from Veterans who are not otherwise eligible for health care. A calculation is involved in establishing enrollment status and known as "net worth" determination. VHA believes this process leads to inequity with regard to enrollment and access to medical care and services.

Discussion:

- VHA provided SECVA with an overview of the presentation, the reasons behind the meeting and the preferred outcome of the discussion.
- VHA explained the three options that were available to discontinue collection of net worth information. The first was to increase VHA's net worth threshold from \$80,000 to \$250,000. The second option was to adopt VBA's formula of treating income and net worth separately for purposes of VA health care enrollment. And the third, preferred option was to discontinue the collection and use of Veteran's net worth information for purposes of VA health care enrollment.
- VHA discussed the concerns with net worth, noting that the level of the net worth limit is unfair to current Veterans. In addition, VHA and VBA are inconsistent in their approach in using net worth.
- VHA discussed the legal authority Under 38 U.S.C. 1722 and provided OGC's opinion that section 1722(d)(1) does not require the Secretary to consider a

Veteran's net worth when determining whether the Veteran is unable to defray the expenses of necessary care.

- The Secretary questioned the validity of net worth as a decision tool if it is being used differently within VA.
- There was discussion about allowing VA to implement the change concurrently while the regulation is in process, allowing Veterans to benefit as early as possible.
- The Secretary requested clarification what qualifies as income.
- The Secretary is supportive of the proposal to discontinue collection of net worth information and provided a conditional 'yes,' but would like to understand whether the collection and use of net worth information should be removed from VBA's Pension eligibility decision.

Action Items:

- VHA:
 - Follow up with DoD to determine how net worth information is used in making benefit decisions.
 - Contact VBA regarding whether the collection and use of net worth information should be removed from VBA's Pension eligibility decision.

Point-of-Contact: Stephanie Mardon, Acting Chief Business Officer, Chief Business Office, VHA, 202-382-2500.