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Federal Response to COVID-19: Department of Veterans Affairs

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Federal Response to COVID-19: Department of Veterans Affairs

The Department of Veterans Affairs (VA) provides a range of benefits to eligible veterans and their dependents. The department carries out its programs nationwide through three administrations and the Board of Veterans' Appeals (BVA).

- The Veterans Health Administration (VHA) is responsible for health care services and medical and prosthetic research programs.
- The Veterans Benefits Administration (VBA) is responsible for, among other things, providing disability compensation, pensions, and education assistance.
- The National Cemetery Administration (NCA) is responsible for maintaining national veterans cemeteries; providing grants to states for establishing, expanding, or improving state veterans cemeteries; and providing headstones and markers for the graves of eligible persons, among other things.

With a vast integrated health care delivery system spread across the United States, the VHA is statutorily required to serve as a contingency backup to the Department of Defense (DOD) medical system during a national security emergency and to provide support to the National Disaster Medical System and the Department of Health and Human Services (HHS), as necessary, in support of national emergencies. These functions are known as VA's "Fourth Mission."

Since the onset of the Coronavirus Disease 2019 (COVID-19) pandemic, Congress has passed a number of relief measures affecting the VA and its Fourth Mission.

The Families First Coronavirus Response Act (P.L. 116-127), enacted on March 18, 2020, provides \$60 million for the VHA in emergency supplemental appropriations. Among other things, the act also prohibits the VA from charging any copayment or other cost-sharing payments for COVID-19 testing or medical visits during any period of this public health emergency.

P.L. 116-128, enacted on March 21, allows the VA to continue to provide GI Bill benefits from March 1, 2020, through December 21, 2020, for courses at educational institutions that are converted from in-residence to distance learning by reason of an emergency or health-related situation.

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) (P.L. 116-136), enacted on March 27, provides a total of \$19.6 billion in emergency supplemental appropriations for FY2020 for certain VA accounts, as well as temporary statutory relief for various VA programs and services during the COVID-19 public health emergency.

The Student Veteran Coronavirus Response Act of 2020 (P.L. 116-140), enacted on April 28, 2020, is intended to mitigate the disruption to VA educational benefits, including Vocational Rehabilitation & Employment (VR&E), when schools, programs of education, and work are suspended or closed from March 1, 2020, to December 21, 2020.

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Introduction

The Department of Veterans Affairs (VA) provides a range of benefits and services to veterans who meet certain eligibility criteria. These benefits and services include, among other things, hospital and medical care;¹ disability compensation and pensions;² education;³ vocational rehabilitation and employment services;⁴ assistance to homeless veterans;⁵ home loan guarantees;⁶ administration of life insurance, as well as traumatic injury protection insurance for servicemembers;⁷ and death benefits that cover burial expenses.⁸

The department carries out its programs nationwide through three administrations and the Board of Veterans' Appeals (BVA). The Veterans Health Administration (VHA) is responsible for health care services and medical and prosthetic research programs. The Veterans Benefits Administration (VBA) is responsible for, among other things, providing disability compensation, pensions, and education assistance. The National Cemetery Administration (NCA)⁹ is responsible for maintaining national veterans cemeteries; providing grants to states for establishing, expanding, or improving state veterans cemeteries; and providing headstones and markers for the graves of eligible persons, among other things.

In addition to providing health care services to veterans and certain eligible dependents, the VHA must, by statute, serve as a contingency backup to the Department of Defense (DOD) medical system during a national security emergency¹⁰ and provide support to the National Disaster Medical System and the Department of Health and Human Services (HHS) as necessary in response to national crises.¹¹ The department must also take appropriate actions to ensure VA medical centers are prepared to protect veteran patients and staff during a public health emergency.¹²

¹ For more information on programs, see CRS Report R42747, *Health Care for Veterans: Answers to Frequently Asked Questions*.

² For more information on programs, see CRS Report R44837, *Benefits for Service-Disabled Veterans*, and CRS Report RS22804, *Veterans' Benefits: Pension Benefit Programs*.

³ For a discussion of education benefits, see CRS Report R42755, *The Post-9/11 GI Bill: A Primer*.

⁴ For details on VA's vocational rehabilitation and employment, see CRS Report RL34627, *Veterans' Benefits: The Vocational Rehabilitation and Employment Program*.

⁵ For detailed information on homeless veterans programs, see CRS In Focus IF10167, *Veterans and Homelessness*.

⁶ For details on the home loan guarantee program, see CRS Report R42504, *VA Housing: Guaranteed Loans, Direct Loans, and Specially Adapted Housing Grants*.

⁷ For more information on insurance programs, see CRS Report R41435, *Veterans' Benefits: Current Life Insurance Programs*.

⁸ For more information on burial benefits, see CRS Report R41386, *Veterans' Benefits: Burial Benefits and National Cemeteries*.

⁹ The NCA was established by the National Cemeteries Act of 1973 (P.L. 93-43).

¹⁰ 38 U.S.C. § 8111A.

¹¹ 38 U.S.C. § 1785.

¹² 38 U.S.C. § 8117.

Novel Coronavirus (COVID-19)¹³

On December 31, 2019, the World Health Organization (WHO) learned of a cluster of pneumonia cases in Wuhan City, Hubei Province of China. The WHO has since linked these illnesses to a disease, called Coronavirus Disease 2019 or COVID-19, caused by a previously unidentified strain of coronavirus, designated SARS-CoV-2. On January 30, 2020, an Emergency Committee convened by the WHO Director-General declared the COVID-19 outbreak to be a Public Health Emergency of International Concern (PHEIC).¹⁴ On January 31, the Secretary of Health and Human Services declared a public health emergency under Section 319 of the Public Health Service Act (42 U.S.C. §247d).¹⁵ On March 11, 2020, the WHO characterized the COVID-19 outbreak as a pandemic.¹⁶ Two days later, on March 13, the President declared the COVID-19 outbreak a national emergency, beginning March 1, 2020.¹⁷

The VHA plays a significant role in the domestic response to a pandemic. The VHA is one of the largest integrated direct health care delivery systems in the nation, caring for more than 7.1 million patients in FY2020 and providing 123.8 million outpatient visits¹⁸ at approximately 1,450 VA sites of care.¹⁹ The VHA employs a workforce of 337,908 full-time equivalent employees (FTEs), largely composed of health care professionals.²⁰ In addition, the VHA has a statutory mission to contribute to the overall federal emergency response capabilities.²¹

Scope and Limitations of This Report

This report provides an overview of VA's and Congress's response thus far to the rapidly evolving COVID-19 pandemic. The report does not provide an exhaustive description of all of

¹³ For more information, see "COVID-19" Hot Topic, at <https://www.crs.gov/>, and CRS Report R46219, *Overview of U.S. Domestic Response to Coronavirus Disease 2019 (COVID-19)*.

¹⁴ WHO, "Statement on the second meeting of the International Health Regulations (2005) Emergency Committee regarding the outbreak of novel coronavirus (COVID-19)," January 30, 2020, <https://www.who.int/news-room/statements>. The definition of and procedures for a PHEIC are at <https://www.who.int/ihr/procedures/pheic/en/>. See also CRS In Focus IF10022, *The Global Health Security Agenda (2014-2019) and International Health Regulations (2005)*.

¹⁵ U.S. Department of Health and Human Services (HHS), "Secretary Azar Declares Public Health Emergency for United States for Coronavirus Disease 2019," press release, January 31, 2020, <https://www.hhs.gov/about/news/2020/01/31/secretary-azar-declares-public-health-emergency-us-2019-novel-coronavirus.html>.

¹⁶ WHO, "WHO Director-General's opening remarks at the media briefing on COVID-19," March 11, 2020, <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19>.

¹⁷ "Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak," March 13, 2020, <https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/>, also at U.S. President (Trump), "Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak," 85 *Federal Register* 53, March 18, 2020.

¹⁸ U.S. Department of Veterans Affairs, *FY2021 Congressional Submission, Medical Programs and Information Technology Programs*, vol. 2 of 4, February 2020, pp. VHA-19 and VHA-20.

¹⁹ *Ibid.*, p. VHA-333. (Sites of care used in this calculation are VA hospitals, community living centers, health care centers, community-based outpatient clinics [CBOCs], other outpatient service sites, and dialysis centers.)

²⁰ *Ibid.*, p. VHA-15.

²¹ 38 U.S.C. §1785; 38 U.S.C. §8117. Also see Department of Veterans Affairs, Veterans Health Administration, Office of Emergency Management, *COVID-19 Response Plan*, Incident-specific Annex to the VHA High Consequence Infection (HCI) Base Plan, Version 1.6, March 23, 2020, pp. 6-7.

the department's activities, and it is based on publicly available information and daily updates provided from the VA.

The report is organized as follows:

- first, it provides details on VHA's, VBA's, and NCA's response activities;
- second, it provides details on VA's emergency preparedness ("Fourth Mission") activities to provide support to the overall federal emergency response; and
- third, it describes congressional activity related to VA and veterans programs and services.

The COVID-19 pandemic is a rapidly evolving situation and information changes on a daily, or often hourly, basis. The **Appendix** provides a summary of VHA's emergency authorities.

Medical Care for Veterans During the COVID-19 Outbreak

VHA's provision of medical care to veterans in response to the COVID-19 outbreak includes implementing mitigation strategies at VHA sites of care, as well as testing and treating veterans diagnosed with or suspected of having COVID-19. (A general description of medical care to veterans is provided in other CRS reports.²²)

In late February 2020, the VA provided information to congressional oversight committees on the number of positive and presumptive positive cases of COVID-19.²³ On March 13, 2020, the department began publishing this information publicly on its website, which it updates on a regular basis.²⁴ The VA has been providing regular updates to congressional oversight committees since that time.

The VA has published two public documents that provide valuable information to patients and the public regarding the response to COVID-19:²⁵ (1) a COVID-19 response plan that provides operational details for both medical care for veterans, as well as other VHA missions, and (2) Coronavirus Frequently Asked Questions (FAQ) for patients. The VA COVID-19 response plan is summarized in more detail in the "Emergency Preparedness ("Fourth Mission")" section of this report.

This section describes current health system capacity (including staffing changes), guidance for patients, mitigation at VHA sites of care (including limitations to community care), and testing and treatment for COVID-19.

²² For more information on the provision of health care to veterans, see CRS Report R42747, *Health Care for Veterans: Answers to Frequently Asked Questions*.

²³ House Committee on Veterans' Affairs, "House Committee on Veterans' Affairs Statement on Actions to Protect VA and Veterans from COVID-19," press release, March 13, 2020.

²⁴ For the most recent number of VA-related cases, see <https://www.accesstocare.va.gov/Healthcare/COVID19NationalSummary>

²⁵ Department of Veterans Affairs, "VA Releases COVID-19 Response Plan," press release, March 27, 2020, <https://www.va.gov/opa/pressrel/pressrelease.cfm?id=5405>.

Health System Capacity

This subsection reflects point-in-time information provided by the VA to reflect the current capacity of the system.

As of April 14, 2020, veterans and VHA employees at sites of care spanning the United States have been diagnosed with COVID-19. The vast majority of COVID-19-positive veterans are being treated in outpatient settings, with a minority in VA inpatient intensive care unit (ICU) and acute care settings. The COVID-19 pandemic is a rapidly evolving situation and information changes on a daily, or often hourly, basis.

In response to the pandemic, the VA increased the number of ICU and acute care beds that are typically available. As of April 29, 2020, bed capacity across the health system is 12,215, with far less than half occupied.²⁶ No regional or local level occupancy data have been reported. The VA started deploying Vet Centers, which provide a range of counseling services, in locations facing large COVID-19 outbreaks.²⁷

The VA is reporting that the health system has adequate levels of personal protective equipment (PPE), including N95 respirators.²⁸ Earlier media reports, citing internal VA memoranda, stated that the VA has a shortage of PPE and hospitals are being directed to decide which employees get certain supplies.²⁹ The media reports suggested that only employees that work directly with COVID-19 patients are to be provided N95 respirators.

An April 16, 2020, memorandum to Veterans Integrated Service Networks (VISN) directors from the VA Deputy Under Secretary for Health for Operations and Management confirmed that the VA received a significant number of N95 respirators and is working to secure additional facemasks and surgical masks.³⁰ The memo specified that facilities have enough masks and respirators to follow CDC-based contingency strategies for supply management.³¹ The memo provides system-wide guidance for staff use of respirators and masks.

- Staff providing direct care should use N95 respirators. If N95 respirators are in short supply, staff are directed to use surgical masks for low-risk care on suspected or confirmed COVID-19 patients.
- Staff providing care for patients in specified institutional settings will be provided with one facemask or surgical mask per day.

It goes on to provide guidance to VISN directors on how to support medical facility directors in implementing contingency and crisis strategies based on the referenced CDC guidelines. Medical facility directors have authority to determine allocation and crisis standards of care, in the event that resources become scarce.³²

²⁶ VHA Daily COVID-19 Update, April 29, 2020.

²⁷ As of April 3, 2020, the VA deployed Vet Centers in New York, NY; Pasadena, CA; and Portland, OR. For more information on Vet Centers, see CRS In Focus IF11378, *Veterans Health Administration: Behavioral Health Services*.

²⁸ VHA Daily COVID-19 Update, April 29, 2020.

²⁹ Ben Kesling, “Veterans Affairs Hospitals Facing ‘Serious’ Shortage of Protective Gear, Internal Memos Show,” *The Wall Street Journal*, April 11, 2020.

³⁰ Department of Veterans Affairs, Deputy Under Secretary for Health for Operations and Management, *Update: Coronavirus (COVID-19) Return to a Contingency strategy for Facemask and N95 Respirator Use*, April 16, 2020.

³¹ For the CDC guidelines for PPE management, see <https://www.cdc.gov/coronavirus/2019-ncov/hcp/ppe-strategy/face-masks.html>.

³² Department of Veterans Affairs, Veterans Health Administration, Care Continuity Program, VHA Directive 0320.02,

The VA is allocating equipment within VISNs, as needed,³³ and it has increased pharmaceutical inventories from 8 days to 10 days and is utilizing certain medications needed for hospitalized COVID-19 patients as national system-wide resources.³⁴

As described below, the VA has taken a number of actions to ensure that there is adequate staffing and that safeguards are in place to protect frontline employees. These actions are described in the next section.

Employment Actions Related to the Pandemic Response

Actions related to employment can be separated into two categories: (1) actions to increase the capacity of the health system during the pandemic response and (2) actions to protect current employees from contracting the COVID-19 virus.

Employment Actions to Increase Health System Capacity

The VA submitted a request to the Office of Personnel Management (OPM) and received approval to waive a requirement that retiree' salaries be reduced when rehired to reflect the retirement annuity they already receive, otherwise known as a dual compensation reduction waiver.³⁵ The VA is asking retired clinicians to register online to join the workforce and to act as surge capacity if needed.³⁶ The registration form adds the reemployed retirees to VHA's national provider database and matches them to opportunities based on their specialties.³⁷

The VA has indicated that it is exploring the use of existing hiring authorities to make 30-day appointments where a critical need exists, one-year appointments in remote/isolated areas, and temporary not-to-exceed 120-day appointments.³⁸ VA on-boarded 3,107 new hires in the period between April 22 and April 28, 2020.³⁹

In addition, activation of the Disaster Emergency Medical Personnel System (DEMPS) allows the VA to deploy personnel from areas that are less impacted by COVID-19 to reinforce staff levels at other facilities as needed (e.g., facilities in New York City and New Orleans).⁴⁰ Under DEMPS, movement of personnel must be approved by the VISN and the originating medical center's director.

Washington, DC, January 22, 2020, p. 5.

³³ VISNs are regional administrative units within the VHA. For more information, see CRS In Focus IF10555, *Introduction to Veterans Health Care*.

³⁴ VHA Daily COVID-19 Update, April 29, 2020.

³⁵ Office of Personnel Management, "NEWS: OPM Issues Flexibility to the VA to Combat COVID-19," press release, March 20, 2020, <https://www.opm.gov/news/releases/2020/03/opm-issues-flexibility-to-the-va-to-combat-covid-19/>. Also see CRS In Focus IF11468, *Federal Executive Agencies: Hiring Flexibilities for Emergency Situations*.

³⁶ Department of Veterans Affairs, "After OPM action, VA invites retired medical personnel back to work," press release, March 24, 2020, <https://www.va.gov/opa/pressrel/pressrelease.cfm?id=5404>.

³⁷ To view the registration form for retirees to rejoin the workforce, see <https://jobs.kontaktintelligence.com/VeteranAdmin/Apply?170d70b8b2ff2c02999be209277e8faf>.

³⁸ 5 C.F.R. § 213.3102(i)(2); 5 C.F.R. § 213.3102(i)(1); and 5 C.F.R. §§ 316 and 330, respectively.

³⁹ VHA Daily COVID-19 Update, April 29, 2020.

⁴⁰ *Ibid.*

Employment Actions to Protect Employees

A number of VHA employees have been diagnosed with COVID-19 or are being monitored for COVID-19. As of April 29, 2020, over 2,200 employees have been diagnosed with COVID-19 and 20 employees have died from the disease.⁴¹ The VA has taken specific actions to protect employees, which, in turn, increases health system capacity by reducing the need for front-line employees to take leave during the pandemic.

The VA is following CDC precautions to reduce the likelihood of transmission of COVID-19 among employees.⁴² According to the VA, staff have been given guidance to remain home if symptoms develop, to obtain health checks for symptoms associated with COVID-19 while at work, and to report symptoms through the correct process.⁴³ Employees are also being encouraged to develop personal and family disaster plans that enable them to continue working.⁴⁴ Employees are encouraged to telework, if their work can be accomplished remotely.

Sites of care are encouraged to use alternative treatment methods wherever possible, such as telemedicine and telehealth. To prevent the spread of infection, the VA has dedicated specific treatment areas for COVID-19 patients.⁴⁵ This and other mitigation efforts at VHA sites of care are discussed below.

Mitigation at VHA Sites of Care

The VHA operates care settings with varying levels of patient risk for developing severe symptoms if COVID-19 is contracted. Each VA medical center is implementing a two-tiered system to mitigate the potential for spread of the virus, with one zone for active COVID-19 cases and a passive zone for care unrelated to COVID-19.⁴⁶ The VA has canceled all elective surgeries and limited routine appointments to only those with the most critical need.⁴⁷

This section describes mitigation efforts at community living centers (CLCs; nursing homes) and spinal cord injury/disorder (SCI/D) centers, which are high-risk settings, separate from other care settings. The VA has implemented different screening processes and other pandemic responses depending on the care setting.

On March 26, 2020, the VA Office of Inspector General (OIG) published the results of inspections of VA facilities for implementing the enhanced screening processes and pandemic readiness, which took place between March 19 and March 24.⁴⁸ The findings of those inspections for each care setting appear in the appropriate sections below.

⁴¹ VHA Daily COVID-19 Update, April 29, 2020.

⁴² For CDC standard and transmission-based precautions, see <https://www.cdc.gov/coronavirus/2019-ncov/infection-control/control-recommendations.html>.

⁴³ VHA Daily COVID-19 Update, April 29, 2020.

⁴⁴ Office of Emergency Management, *COVID-19 Response Plan*, Veterans Health Administration, March 23, 2020, p. 42, https://www.va.gov/opa/docs/VHA_COVID_19_03232020_vF_1.pdf.

⁴⁵ *Ibid.*, p. 41.

⁴⁶ U.S. Department of Veterans Affairs, *COVID-19 Guidance for Community Providers*, Fact Sheet IB-10-145, March 2020.

⁴⁷ White House Coronavirus Task Force, Daily Briefing, March 18, 2020.

⁴⁸ Office of Inspector General, *OIG Inspection of Veterans Health Administration's COVID-19 Screening Processes and Pandemic Readiness*, Department of Veterans Affairs, March 26, 2020, <https://www.va.gov/oig/pubs/VAOIG-20-02221-120.pdf>.

CLCs and SCI/Ds

On March 10, 2020, the VA announced safeguards to protect nursing home residents and spinal cord injury patients.⁴⁹ As of that date, no visitors are allowed at either VA nursing homes or spinal cord injury/disorder centers. The only exception to this policy is if a veteran is in the last stages of life, in which case the VA allows visitors in the veteran's room only. The VA is not accepting any new admissions to nursing homes and is limiting new admissions to SCI/D centers.

The OIG tested the no-access policy at 54 CLCs and found the majority to be in compliance with the policy.⁵⁰ Nine of the 54 CLCs tested were prepared to allow OIG staff to enter, despite the no-access policy.⁵¹

Enhanced Screening at All Sites of Care

The VA implemented enhanced screening procedures at all sites of care to screen for respiratory illness and COVID-19 exposure. Because each facility determines its own enhanced screening procedures, those procedures vary at the local level. However, the VA has designed standardized screening questions for each facility. Screening consists of the following three general questions:

- Do you have a fever or worsening cough or shortness of breath or flu-like symptoms?
- Have you or a close contact traveled to an area with widespread or sustained community transmission of COVID-19 within 14 days of symptom onset?
- Have you been in close contact with someone, including health care workers, confirmed to have COVID-19?

The VA's COVID-19 response plan provided specific potential questions that sites of care can implement in different care settings.⁵² Those screening questions also include screening scenarios for virtual triage via phone, telehealth, or secure messaging.

If screened individuals are determined to be at risk, staff are instructed to isolate them immediately. If critically ill, individuals are transferred to the emergency department. If stable, individuals are sent home with printed instructions to isolate and contact their primary care providers.⁵³

The OIG evaluated screening procedures at 58 medical centers and 125 community-based outpatient clinics (CBOC). The OIG found that 41 of 58 (71%) of medical centers' screening processes were generally adequate, 16 (28%) had some opportunities for improvement, and one medical center had inadequate screening procedures.⁵⁴ The OIG found that the vast majority of

⁴⁹ U.S. Department of Veterans Affairs, "VA announces safeguards to protect nursing home and spinal cord injury patients," press release, March 10, 2020, <https://www.va.gov/opa/pressrel/pressrelease.cfm?id=5400>.

⁵⁰ Office of Inspector General, *OIG Inspection of Veterans Health Administration's COVID-19 Screening Processes and Pandemic Readiness*, Department of Veterans Affairs, March 26, 2020, pp. 11-14, <https://www.va.gov/oig/pubs/VAOIG-20-02221-120.pdf>.

⁵¹ If no one was checking visitors or if access was granted, OIG staff were instructed to not enter the facility.

⁵² Office of Emergency Management, *COVID-19 Response Plan*, Veterans Health Administration, March 23, 2020, pp. 30-38, https://www.va.gov/opa/docs/VHA_COVID_19_03232020_vF_1.pdf.

⁵³ Office of Emergency Management, *COVID-19 Response Plan*, Veterans Health Administration, March 23, 2020, p. 16, https://www.va.gov/opa/docs/VHA_COVID_19_03232020_vF_1.pdf.

⁵⁴ Office of Inspector General, *OIG Inspection of Veterans Health Administration's COVID-19 Screening Processes and Pandemic Readiness*, Department of Veterans Affairs, March 26, 2020, p. 5, <https://www.va.gov/oig/pubs/>

CBOCs (97%) had screening processes in place. Four CBOCs had no screening process in place.⁵⁵

Limitations on Community Care

The VA instituted several changes to community care guidance during the COVID-19 pandemic response on community care access under the Veterans Community Care Program (VCCP). Under normal circumstances, veterans generally are eligible for access to medical care from non-VA community providers if they meet certain criteria, including wait time and drive time access standards and if the veteran elects to receive community care.⁵⁶

The eligibility criteria are mandated by law, and the VA has no authority to waive them.⁵⁷ However, as many non-VA providers are postponing or canceling routine care to mitigate the spread of COVID-19, wait times may be just as long or longer in the community. In addition, the VA indicated that community providers should not have veterans attend routine appointments in-person except where the urgency of in-person treatment outweighs the risk of contracting COVID-19.⁵⁸

VA issued the following guidance to providers:

- convert routine in-person appointments to telehealth;⁵⁹
- follow CMS, CDC, state, and local guidance regarding screening, testing, case reporting, and PPE;
- plan for increased high acuity demand;
- communicate with local VA medical center regarding any veteran cases or exposure to COVID-19;
- episodes of care ordered through the VA can be extended by 60 days; and
- work with the third-party administrators of the community care network (CCN) to expand enrollment where possible.⁶⁰

Guidance for Patients

The VA is promoting the Coronavirus FAQ document as the main source of guidance for veterans.⁶¹ This document includes answers to broad questions about COVID-19, VA's role,

VAOIG-20-02221-120.pdf.

⁵⁵ Ibid. pp. 10-11.

⁵⁶ For more information on the VCCP, see CRS Report R45390, *VA Maintaining Internal Systems and Strengthening Integrated Outside Networks Act of 2018 (VA MISSION Act; P.L. 115-182)*.

⁵⁷ 38 U.S.C. § 1703(d); 38 C.F.R. § 17.4010.

⁵⁸ Letter from Kameron Matthews, Deputy Under Secretary for Health for Community Care, to Community Providers, April 1, 2020, https://www.va.gov/COMMUNITYCARE/docs/providers/COVID-19_Guidance-Letter.pdf.

⁵⁹ For more information on VA telehealth, see CRS Report R45834, *Department of Veterans Affairs (VA): A Primer on Telehealth*.

⁶⁰ The CCN is separated into regions. Administration is either accomplished by contract with third-party administrators or by VA directly, depending on the region.

⁶¹ The Coronavirus FAQ is available at <https://www.va.gov/coronavirus-veteran-frequently-asked-questions/>.

testing, access to care, mental health, and visiting patients. A fact sheet with similar information is also available to patients.⁶²

The VA is advising veterans who may be sick or who are exhibiting flu-like symptoms not to come to a VA facility. Instead, patients are asked to send a secure message through the VHA online portal, My HealtheVet, or to schedule a telehealth appointment.⁶³ The VA is experiencing high call volumes at some facilities and call centers, so it is advising veterans to use online tools first. However, patients can call their health care providers instead of using the online tools available from the VA.⁶⁴

In addition, the VA is advising patients to budget additional time for appointments due to enhanced screening measures at VA facilities. These enhanced screening measures, as well as other mitigation strategies at VHA facilities, are described below.

COVID-19 Testing and Treatment⁶⁵

This section describes the current VA policy on testing patients for COVID-19 and treatment following a COVID-19 diagnosis.

COVID-19 Diagnostic Testing

On March 13, 2020, the department began publishing the number of positive cases of COVID-19, and the number of tests conducted, on its public website, which it updates on a regular basis.⁶⁶ Individual medical centers have discretion on where to send samples for testing. Samples can be tested at the Palo Alto VA Medical Center, state public health labs, or private labs.

Individual providers decide whether to test for COVID-19 on a patient-by-patient basis. However, the VA has advised providers that to be tested, patients must be exhibiting respiratory symptoms *and* have another factor, such as recent travel or known exposure to someone who tested positive.

Generally, diagnostic testing is a covered service under VA's standard medical benefits package, which is available to all veterans enrolled in the VA health care system.⁶⁷ Some veterans are required to pay copayments for care that is not related to a service-connected disability. However, routine lab tests are exempt from copayment requirements.⁶⁸

The Families First Coronavirus Response Act (P.L. 116-127), enacted on March 18, 2020, does not allow the VA to charge any copayment or other cost-sharing payments for COVID-19 testing or medical visits during any period of this public health emergency.⁶⁹ (For a discussion of P.L. 116-127, see the "Congressional Response" section of this report.)

⁶² The VA COVID-19 fact sheet is available at <https://www.tucson.va.gov/docs/COVID19FactSheetFINAL508.pdf>.

⁶³ Veterans can access My HealtheVet at <https://www.myhealth.va.gov/mhv-portal-web/home>. They can access telehealth services at <https://telehealth.va.gov/type/home>. For more information on VA telehealth services, see CRS Report R45834, *Department of Veterans Affairs (VA): A Primer on Telehealth*.

⁶⁴ Veterans can call MyVA311 (844-698-2311) to reach their local VA medical center.

⁶⁵ For more information on general COVID-19 testing, see CRS Report R46261, *Development and Regulation of Domestic Diagnostic Testing for Novel Coronavirus (COVID-19): Frequently Asked Questions*.

⁶⁶ <https://www.publichealth.va.gov/n-coronavirus/>.

⁶⁷ 38 C.F.R. §17.38.

⁶⁸ 38 C.F.R. § 17.108(e)(14).

⁶⁹ Generally, diagnostic testing is a covered service under VA's standard medical benefits package, which is available to all veterans enrolled in the VA health care system (38 C.F.R. §17.38). Some veterans are required to pay copayments

COVID-19 Treatment

The VA has not indicated whether it has developed a specific treatment plan for patients diagnosed with COVID-19. Treatment depends largely on the severity of symptoms that each patient experiences.

The VA is handling coverage and cost of treatment for COVID-19 as it would for any other treatment for a condition that is not service-connected. Treatment for COVID-19 is a covered benefit under the VA standard medical benefits package. However, some veterans may have to pay copayments for both outpatient and inpatient care.⁷⁰

Normal coverage rules apply for veterans who report to urgent care or walk-in clinics. To be eligible, a veteran must be enrolled in the VA health care system and must have received VA care in the past 24 months preceding the episode of urgent or walk-in care.⁷¹ Eligible veterans needing urgent care must obtain care through facilities that are part of VA's contracted network of community providers.⁷² These facilities typically post information indicating that they are part of VA's contracted network. If an eligible veteran receives urgent care from a *noncontracted* provider or receives services that are *not* covered under the urgent care benefit, the veteran may be required to pay the full cost of such care.⁷³ Certain veterans are required to pay copayments for care obtained at a VA-contracted urgent care facility or walk-in retail health clinic.⁷⁴

In addition, normal rules apply for veterans who report to non-VA emergency departments. To be eligible for VA payment or reimbursement, a veteran's non-VA care must meet the following criteria:

- The emergency care or services were provided in a hospital emergency department or a similar facility that provides emergency care to the public.
- The claim for payment or reimbursement for the initial evaluation and treatment was for a condition of such a nature that a prudent layperson would have reasonably expected that delay in seeking immediate medical attention would have been hazardous to life or health.
- A VA or other federal facility or provider was not feasibly available, and an attempt to use them beforehand would not have been considered reasonable by a prudent layperson.
- At the time the emergency care or services were furnished, the veteran was enrolled in the VA health care system and had received medical services from the

for care that is not related to a service-connected disability. However, routine lab tests are exempt from copayments. (38 C.F.R. §17.108(e)(14)). Prior to enactment of P.L. 116-127, it was unclear whether VA was including COVID-19 testing under this exemption.

⁷⁰ For more information on copayments for medical care, see CRS Report R42747, *Health Care for Veterans: Answers to Frequently Asked Questions*.

⁷¹ A veteran would meet this requirement under any of the following situations: "Care provided in a VA facility, care authorized by VA performed by a community provider, care reimbursed under VA's Foreign Medical Program (38 U.S.C. 1724) or an emergency treatment authority (38 U.S.C. 1725 or 1728) or care furnished by a State Veterans Home" (U.S. Department of Veterans Affairs, "Urgent Care," 84 *Federal Register* 26014, June 5, 2019).

⁷² <https://vaurgentcarelocator.triwest.com/>.

⁷³ U.S. Department of Veterans Affairs, *Veteran Community Care – Urgent Care*, Fact Sheet, May 2019.

⁷⁴ For more information on copayments for urgent care, see CRS Report R42747, *Health Care for Veterans: Answers to Frequently Asked Questions*.

- VHA within the 24-month period preceding the furnishing of such emergency treatment.
- The veteran was financially liable to the provider of emergency treatment for that treatment.
 - The veteran had no coverage under a health plan contract that would fully cancel the medical liability for the emergency treatment.
 - If the condition for which the emergency treatment was furnished was caused by an accident or work-related injury, the veteran is required to first pursue all claims against a third party for payment of such treatment.⁷⁵

Potential Vaccine Cost-sharing

In the event that a vaccine is approved by FDA and brought to market, it is unclear whether certain veterans would be charged copayments for administration of the vaccine.⁷⁶ Under current regulations, the VA is prohibited from charging copayments for “an outpatient visit solely consisting of preventive screening and immunizations (e.g., influenza immunization, pneumococcal immunization).”⁷⁷

Homelessness and Housing

Veterans experiencing homelessness live in conditions that could make them particularly vulnerable to COVID-19. Those who are unsheltered lack access to sanitary facilities. For those sleeping in emergency shelters, conditions may be crowded, with short distances between beds, and there may be limited facilities for washing and keeping clean.

The VA administers programs to assist veterans experiencing homelessness and also manages several grant programs for nonprofit and public entities to provide housing and services to homeless veterans. These include the Homeless Providers Grant and Per Diem program (GPD), for transitional housing and services; the Supportive Services for Veteran Families program (SSVF), for short- to medium-term rental assistance and services; and Contract Residential Services (CRS), for providing housing for veterans participating in VA’s Health Care for Homeless Veterans program. In addition, the Department of Housing and Urban Development (HUD), together with VA, administers the HUD-VA Supportive Housing program (HUD-VASH), through which veterans who are homeless may receive Section 8 vouchers to cover the costs of permanent housing and VA provides case management services.⁷⁸

VA General Guidance for Homeless Program Grantees

The VA released guidance on March 13, 2020, for its grantees that administer programs for veterans who are homeless.⁷⁹ The guidance suggests grantees take a number of actions:

⁷⁵ 38 U.S.C. §1725. 38 C.F.R. §§17.1000-17.1008.

⁷⁶ For more information on COVID-19 and vaccination, see CRS Legal Sidebar LSB10427, *COVID-19: Legal Considerations for Bringing a New Vaccine to Market*.

⁷⁷ 38 C.F.R. §17.108(e)(11).

⁷⁸ For more information, see CRS Report RL34024, *Veterans and Homelessness*.

⁷⁹ U.S. Department of Veterans Affairs, *Guidance on the Coronavirus (COVID-19) for VA Grantees Providing Homeless Services*, March 13, 2020, <https://www.va.gov/HOMELESS/docs/GPD/providers/GuidanceCOVID-19->

- Develop a response plan, or review an existing plan, and coordinate response planning with local entities, including health departments, local VA medical providers, and Continuums of Care.⁸⁰ Plans should address staff health, potential staff shortages, and acquisition of food and other supplies, as well as how to assist veteran clients.
- Prevent infection through methods recommended by the CDC, such as frequent handwashing, wiping down surfaces, and informing clients about prevention techniques.
- In congregate living facilities, such as those provided through VA's Grant and Per Diem program, keep beds at least three feet apart (preferably six, if space permits), sleep head-to-toe, or place barriers between beds, if possible.
- Develop questions to ask clients about their health to determine their needs and how best to serve them. For new clients, interviews should occur prior to entry into a facility (such as over the phone), if possible, or in a place separate from other clients.
- If a client's answers to questions indicate risk of COVID-19, separate them from other program participants (have an isolation area, if possible), clean surfaces, and reach out to medical professionals. If isolation is not practical, reach out to other providers who might be able to isolate.

Supportive Services for Veteran Families (SSVF)

The VA has released additional specific guidance and flexibilities for SSVF providers.

- SSVF regulations allow funds to be used for emergency housing, including hotels and motels; however, this use of funds may occur only when no other housing options, such as transitional housing through GPD, are available. In response to COVID-19, however, grantees may use funds for high-risk veterans to live in hotels and motels instead of congregate settings.⁸¹
- Due to Public Housing Authority (PHA) closures and remote work, veterans who have HUD-VASH vouchers, but who have not yet moved into a housing unit, may face delays in receiving rental assistance. This delay may occur if a PHA cannot conduct a housing quality standards (HQS) inspection or complete other administrative tasks that allow move-in to occur. In these cases, SSVF grantees may use funds to cover rental assistance until a PHA has completed the tasks allowing the voucher to be used.⁸²

VA_Grantees_3-13-20.pdf.

⁸⁰ Continuums of Care are planning boards that coordinate homeless services at the local level. Their role includes coordinating local service providers to apply for Department of Housing and Urban Development Continuum of Care program funding.

⁸¹ U.S. Department of Veterans Affairs, *Available SSVF Resources to Place Homeless Veterans at High-Risk of COVID-19*, March 13, 2020, https://www.va.gov/HOMELESS/ssvf/docs/Available_Supportive_Services_for_Veteran_Families_SSVF_Resources_to_Place_Homeless_Veterans_at_HighRisk_of_COVID_19.pdf.

⁸² U.S. Department of Veterans Affairs, *HUD-VASH SSVF Referral Packet COVID-19, For use between March 27 and June 30, 2020*, March 2020, https://www.va.gov/HOMELESS/ssvf/docs/HUD_VASH_SSVF_Referral_Packet_COVID_19.docx.

HUD-VA Supportive Housing program (HUD-VASH)

For veterans residing in rental housing using HUD-VASH vouchers, HUD has waived certain requirements pursuant to CARES Act (P.L. 116-136) waiver authority to address situations that may arise due to COVID-19.⁸³ For example, ordinarily HUD will not approve a unit for Section 8 rental assistance (which includes HUD-VASH vouchers) unless it has passed an HQS inspection. However, HUD has waived this requirement and will accept an owner certification that there is “no reasonable basis to have knowledge that life threatening conditions exist in the unit.” PHAs must conduct inspections of units as soon as reasonably possible, and no later than October 31, 2020. PHAs may also accept alternative inspection results rather than HQS inspections and allow families to move into units in these cases. For existing tenants, PHAs may change from an annual unit inspection schedule to a biennial schedule without updating their administrative plan.

If resident income changes due to an inability to work, or other reason, residents should report the change to their local PHA and rent should be adjusted accordingly. HUD has waived the requirement that PHAs obtain third-party verification of an income change for these income recertifications. In addition, as part of the CARES Act (P.L. 116-136), residents receiving Section 8 rental assistance cannot be evicted for nonpayment of rent for 120 days from the date of the bill’s enactment (March 27, 2020).⁸⁴

VA Loan Programs

The VA administers both guaranteed and direct loans for veterans through the Veterans Benefits Administration.⁸⁵ Prior to enactment of the CARES Act, VA encouraged lenders to establish a foreclosure moratorium for borrowers with VA loans, but a moratorium was not required. However, the CARES Act provides for both forbearance (i.e., allowing borrowers to reduce or suspend mortgage payments) and a foreclosure moratorium for federally backed single-family mortgages, including guaranteed VA loans. Direct VA loans do not appear to be included in the CARES Act definition of federally backed mortgage.

Borrowers may request forbearance from their loan servicer for up to 180 days, with another 180-day extension, due to financial hardship caused directly or indirectly by COVID-19. The foreclosure moratorium is in effect for 60 days beginning March 18, 2020. For more information about these provisions, see CRS Insight IN11334, *Mortgage Provisions in the Coronavirus Aid, Relief, and Economic Security (CARES) Act*.

Veterans Benefits Administration

The Veterans Benefits Administration has taken several actions to assure continued delivery of disability compensation, pensions, and education assistance.

⁸³ U.S. Department of Housing and Urban Development, PIH Notice 2020-05, COVID-19 Statutory and Regulatory Waivers for the Public Housing, Housing Choice Voucher, Indian Housing Block Grant and Indian Community Development Block Grant programs, Suspension of Public Housing Assessment System and Section Eight Management Assessment Program, April 10, 2020, <https://www.hud.gov/sites/dfiles/OCHCO/documents/2020-05pihn.pdf>.

⁸⁴ For more information, see CRS Insight IN11320, *CARES Act Eviction Moratorium*.

⁸⁵ For more information, see CRS Report R42504, *VA Housing: Guaranteed Loans, Direct Loans, and Specially Adapted Housing Grants*.

Compensation and Pension Benefits

On March 18, 2020, the Veterans Benefits Administration announced via Facebook and Twitter that all regional offices would be closed to the public starting March 19.⁸⁶ The regional offices are to remain open to ensure the continuity of benefits, however, the offices are longer accepting walk-ins for claims assistance, scheduled appointments, counseling, or other in-person services. The VBA is directing veterans who have claims-specific questions or any other questions to use the Inquiry Routing & Information System (IRIS) or to call 1-800-827-1000.⁸⁷

In a March 26 interview, VA Under Secretary for Benefits, Dr. Paul Lawrence, assured veterans and their families that benefits were still being processed thanks in part to the large telework capability in place for the VBA. Lawrence stated that about 90% of all VBA employees, approximately 22,500 individuals, are set up and teleworking to retain the continuity of processing claims.⁸⁸

Dr. Lawrence also addressed the issue of veterans who need a compensation and pension exam completed as part of their benefits application. Due to travel restrictions and social distancing policies, Lawrence explained VBA's attempt at still providing the exams but without in-person contact. He stated:

So we're trying to do more, a lot more through telehealth, You know phone call or a Skype session or something. We can get these exams done that we're flexing in new ways. Where once things were done in person ... now they're being done electronically.⁸⁹

Following Dr. Lawrence's interview, on March 31, the VA issued a press release announcing changes to several in-person meetings and programs to ensure the safety of both the staff and veteran/dependent during this time. Some of these changes included

- providing educational counseling through online and telephone services;
- using teleconferencing and VA Video Connect for case management, general counseling and connecting veterans to VR&E services;
- conducting informal conference hearings by telephone or video conferencing;
- providing virtual briefings and individualized counseling for transitioning servicemembers; and
- conducting examinations for disability benefits using tele-compensation and pension (Tele-C&P) exams. If an in-person examination is required, veterans will be notified for scheduling.⁹⁰

However, on April 6, the VBA announced via email that it is "suspending in-person C&P examinations until further notice and will continue to conduct C&P exams through ACE and Tele-C&P, when possible."⁹¹ The email also provided guidance on filing claims and information to

⁸⁶ This announcement is also included as a banner on the VBA regional offices web page. However, this banner is not permanent. <https://www.benefits.va.gov/benefits/offices.asp>

⁸⁷ <https://www.facebook.com/VeteransBenefits/> and <https://twitter.com/VAVetBenefits>.

⁸⁸ Interview with Dr. Paul Lawrence, March 26, 2020, *Federal News Network*, <https://federalnewsnetwork.com/veterans-affairs/2020/03/coronavirus-hits-just-as-vba-was-getting-claims-backlogs-under-control/>.

⁸⁹ Ibid.

⁹⁰ <https://www.blogs.va.gov/VAntage/73202/va-expands-virtual-services-support-veterans-due-covid-19-pandemic/>.

⁹¹ Email from Veterans Benefits Administration, Monday April 6, 2020, "Your Virtual C&P Examination Alternatives During the Pandemic."

assist veterans with submitting medical documentation without appearing in person. On April 3, the VA announced that claimants who need an extension in filing their paperwork “can simply submit [the request] with any late-filed paperwork and veterans do not have to proactively request an extension in advance.”⁹²

Educational Assistance

In FY2020, over 900,000 individuals are expected to receive veterans educational assistance from the GI Bills (e.g., the Post-9/11 GI Bill), Vocational Rehabilitation & Employment (VR&E), Veteran Employment Through Technology Education Courses (VET TEC), Veterans Work-Study, Veterans Counseling, and VetSuccess on Campus (VSOC).⁹³ As a result of COVID-19, some participants’ training and education may be disrupted, and some participants may receive a lower level of benefits, or none at all. These concerns may directly affect beneficiaries in several ways, including the following:

- Some students may be required to stop out,⁹⁴ discontinue working, or take a leave of absence as a result of their own illness.
- Some training establishments, educational institutions, and work-study providers may close temporarily or permanently.
- Some training establishments, educational institutions, and work-study providers may be required to reduce participants’ hours, enrollment rate, or rate of pursuit.
- Some educational institutions may transition some courses to a distance learning format.
- Some educational institutions may require students living on campus to move off campus.
- Individuals receiving benefits in foreign countries may encounter any of the above circumstances while residing in a foreign country whose COVID-19 situation may differ from that in the United States, or may stop out, discontinue working, or take a leave of absence and return to the United States.

Since mid-March, the VA has sent direct emails to GI Bill participants and school certifying officials (SCOs) and held webinars for SCOs to explain its authority and payment processing procedures that are directly relevant to COVID-19 disruptions.⁹⁵

On March 13, 2020, the VBA Education Service requested that school-certifying officials “temporarily refrain from making any adjustments to enrollment certifications” if resident courses transitioned to distance education pending subsequent VA guidance and/or legislative action.⁹⁶ The VBA Education Service administers VA educational assistance programs. Prior to the COVID-19 emergency, educational institutions were required to receive approval before transitioning any courses to a distance learning format for the courses to remain GI Bill-eligible.

⁹² <https://www.va.gov/opa/pressrel/pressrelease.cfm?id=5412>.

⁹³ For a description of education benefits other than the Post-9/11 GI Bill, see CRS Report R42785, *GI Bills Enacted Prior to 2008 and Related Veterans’ Educational Assistance Programs: A Primer*.

⁹⁴ A stop-out is a student who interrupts his or her enrollment with a break of more than four months before reenrolling.

⁹⁵ Emails from VBA Education Service to school-certifying officials and GI Bill participants, March 12, 2020; Department of Veterans Affairs, VBA Education SCO/SAA Webinar, March 26-27 and 30, 2020; and <https://benefits.va.gov/gibill/>.

⁹⁶ Email from VBA Education Service to school-certifying officials, March 13, 2020.

GI Bill benefits could not be paid for the pursuit of online courses that had not been previously approved as online courses. This limitation was alleviated by recently enacted legislation (for a discussion of P.L. 116-128, see the “Congressional Response” section of this report).

In addition, on April 3, 2020, the VA announced that it was suspending for sixty days the collection of institutions’ and veterans’ debt, including for debts under the jurisdiction of the Department of the Treasury.⁹⁷ Individuals with an existing repayment plan must request a suspension if they are unable to make payments.⁹⁸ In 2019, the VA indicated that approximately 25% of GI Bill participants must resolve an overpayment-related debt at some point.⁹⁹

The VBA Education Service has announced that it is moving away from paper correspondence, including faxes. In an effort to accomplish this transition, VBA has requested that GI Bill participants provide or update their email addresses. On-the-job training (OJT) and apprenticeship training establishments must submit certifications electronically.¹⁰⁰

National Cemetery Administration

The National Cemetery Administration has provided information for the survivors and dependents of veterans who have passed away and are scheduled to be buried in a National Cemetery during this national emergency. Effective March 23, 2020, the NCA announced that all “committal services and the rendering of military funeral honors, whether by military personnel or volunteer organizations, will be discontinued until further notice at VA national cemeteries.”¹⁰¹

VA National Cemeteries will remain open to visitors and for interments, but visitors should follow their local communities’ restrictions on visitations and travel. In addition, visitors should be prepared for certain areas of the cemetery typically open to the public to be closed. These areas include public information centers, visitor centers, and chapels. For direct interments, the NCA is limiting attendance to immediate family of deceased family members, up to 10 individuals. In addition, the NCA is to work with families to schedule a committal or memorial service at a later date.

On Friday, March 27, the NCA informed funeral directors of a change in the floral arrangement policy, stating that national cemeteries will no longer accept floral arrangements with direct interments. If families want to place a floral arrangement at the gravesite, they may do so after 4:30 pm on the day of interment or any time after. In addition, the NCA limited floral arrangements to two per gravesite.

The NCA announced that the National Cemetery Scheduling Office in St. Louis will continue to provide scheduling services.¹⁰² The NCA has set up an “Alerts” web page for the public to check

⁹⁷ Department of Veterans Affairs, Office of Public and Intergovernmental Affairs, *VA extends financial, benefits and claims relief to Veterans*, April 3, 2020; and Department of Veterans Affairs, VBA Education Service, *DMC Response to COVID-19: Treasury Offset Program, Letter, and Payment Processing Concerns*, April 9, 2020.

⁹⁸ Department of Veterans Affairs, Facebook post, *The Post-9/11 GI Bill, U.S. Department of Veterans Affairs*, April 13, 2020.

⁹⁹ Leo Shane III, “VA concedes its debt collection systems leave veterans confused, frustrated,” *Military Times*, September 19, 2019.

¹⁰⁰ Department of Veterans Affairs, VBA Education Service, *GI Bill Program Working Towards Paperless Environment*, April 15, 2020.

¹⁰¹ <https://www.cem.va.gov/alerts.asp>.

¹⁰² <https://www.facebook.com/NationalCemeteries> and <https://twitter.com/VANatCemeteries>.

cemetery operating status¹⁰³ and is directing the public to its Facebook and Twitter pages for the most recent operating information.¹⁰⁴

Emergency Preparedness (“Fourth Mission”)

In 1982, the Veterans Administration and Department of Defense Health Resources Sharing and Emergency Operations Act (P.L. 97-174) was enacted to serve as the primary health care backup to the military health care system during and immediately following an outbreak of war or a national emergency.¹⁰⁵ Since then, Congress has provided additional authorities to VA to “use its vast infrastructure and resources, geographic reach, deployable assets, and health care expertise, to make significant contributions to the Federal emergency response effort in times of emergencies and disasters.”¹⁰⁶

Among other authorities, the VHA may care for nonveterans, as well as veterans not enrolled in the VA health care system.¹⁰⁷ The VA also has authority to provide certain health services such as medical counter measures¹⁰⁸ to VA employees.¹⁰⁹ The authority to care for care for nonveterans, applies in situations where the President has declared a major disaster or emergency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), or where the HHS Secretary has declared a disaster or emergency activating the National Disaster Medical System established pursuant to Section 2811(b) of the Public Health Service Act (42 U.S.C. §300hh-11(b)). The President’s March 13, 2020, declaration of a national emergency under Section 501(b) of the Stafford Act allows VA to use this authority.

On March 27, 2020, the VA released its COVID-19 Response Plan.¹¹⁰ The plan defines the VA’s national level roles and responsibilities:¹¹¹

¹⁰³ <https://www.cem.va.gov/alerts.asp>.

¹⁰⁴ <https://www.facebook.com/NationalCemeteries> and <https://twitter.com/VANatCemeteries>.

¹⁰⁵ 38 U.S.C. §811A.

¹⁰⁶ U.S. Department of Veterans Affairs, *Department of Veterans Affairs FY 2018 - 2024 Strategic Plan*, Refreshed May 31, 2019, May 31, 2019, p. 35.

¹⁰⁷ 38 U.S.C. §1785 and 38 C.F.R. §17.86 establish VA authority to provide hospital care and medical services to nonveterans responding to, involved in, or otherwise affected by a disaster or emergency. These individuals may include active duty servicemembers, as well as National Guard and Reserve component members activated by state or federal authority. This authority also allows VA to treat veterans not enrolled in the VA health care system. Unless another federal agency reimburses the VA, individuals could be charged for this care. “[I]ndividuals who receive hospital care or medical services under this section [38 C.F.R. §17.86] are responsible for the cost of the hospital care or medical services when charges are mandated by Federal law (including applicable appropriation acts) or when the cost of care or services is not reimbursed by other-than-VA Federal departments or agencies.” 38 C.F.R. §17.86.

¹⁰⁸ Medical counter measures are: “are life-saving medicines and medical supplies regulated by the U.S. Food and Drug Administration (FDA) that can be used to diagnose, prevent, protect from, or treat conditions associated with chemical, biological, radiological, or nuclear (CBRN) threats, emerging infectious diseases, or a natural disaster” <https://www.cdc.gov/cpr/readiness/mcm.html>.

¹⁰⁹ 5 U.S.C. §7901; also see, Appendix A of Department of Veterans Affairs, Veterans Health Administration, *All-Hazards Emergency Cache Program*, VHA Directive 1047, Washington, DC, April 21, 2020, pp. A-1-A-2.

¹¹⁰ Department of Veterans Affairs, “VA Releases COVID-19 Response Plan,” press release, March 27, 2020, <https://www.va.gov/opa/pressrel/pressrelease.cfm?id=5405>.

¹¹¹ Department of Veterans Affairs, Veterans Health Administration, Office of Emergency Management, *COVID-19 Response Plan*, Incident-specific Annex to the VHA High Consequence Infection (HCI) Base Plan, Version 1.6, March 23, 2020, pp. 6-7.

- VHA will provide [personal protective equipment] PPE fit-testing, medical screening, and training for [Emergency Support Function #8]¹¹² ESF #8 and other Federal response personnel.
- Provide VHA staff as ESF #8 liaisons to [Federal Emergency Management Agency] FEMA the Incident Management Assistance Teams deploying to the state emergency operations center.
- Provide VHA planners currently trained to support ESF #8 teams.
- VHA provides vaccination services to VA staff and VA beneficiaries in order to minimize stress on local communities.
- VHA furnishes available VA hospital care and medical services to individuals responding to a major disaster or emergency, including active duty members of the Armed Forces as well as National Guard and military Reserve members activated by state or Federal authority for disaster response support.
- VHA provides ventilators, medical equipment and supplies, pharmaceuticals, and acquisition and logistical support through VA National Acquisition Center.
- [NCA] provides burial services for eligible veterans and dependents and advises on methods for interment during national security emergencies.
- VHA designates and deploys available medical, surgical, mental health, and other health service support assets.
- VHA provides one representative to the National Response Coordination Center (NRCC) during the operational period on a 24/7 basis.

According to the VA, during declared major disasters and emergencies, service-connected veterans receive the highest priority for VA care and services, followed by members of the Armed Forces receiving care under 38 U.S.C. Section 8111A, and then followed by individuals affected by a disaster or emergency described in 38 U.S.C. Section 1785 (i.e., individuals requiring care during a declared disaster or emergency or during activation of the National Disaster Medical System [NDMS]). In general, care is prioritized based on clinical need—that is, urgent, life-threatening medical conditions are treated before routine medical conditions (see the **Appendix**). The Coronavirus Aid, Relief, and Economic Security Act (CARES Act; P.L. 116-136), provided funding for the Public Health and Social Services Emergency Fund to reimburse the VHA to respond to COVID-19 and to provide medical care for nonveterans. However, prior to reimbursing the VHA, the HHS Secretary is required to certify to congressional appropriations committees that funds available under the Robert T. Stafford Disaster Relief and Emergency Assistance Act are insufficient and that funds provided under the CARES Act are necessary to reimburse the VHA for expenses incurred to provide health care to nonveterans.

Generally, if a state, tribal, or territorial government needs resources, it can request assistance from the federal government through its local HHS regional emergency coordinator (REC), which is a part of FEMA’s NRCC. The VA cannot receive direct requests for assistance from state and local governments.¹¹³ In addition, the VA does not support providing VA medical personnel to nondepartment facilities. The VHA has accepted several “fourth mission” assignments from

¹¹² Emergency support functions “are mechanisms for grouping functions most frequently used to provide Federal support to States and Federal-to-Federal support, both for declared disasters and emergencies under the Stafford Act and for non-Stafford Act incidents.” Emergency support function #8 pertains to public health and medical services. See Emergency Support Function Annexes, <https://www.fema.gov/media-library/assets/documents/25512>.

¹¹³ Email from Department of Veterans Affairs, Office of Congressional and Legislative Affairs, March 17, 2020.

FEMA/HHS. For example, the VHA has responded and provided assistance to New York and New Jersey. On March 29, VA New York Harbor Healthcare System’s Manhattan and Brooklyn VA medical centers admitted nonveteran, non-COVID-19 patients, and on April 1, East Orange, New Jersey VA Medical Center, admitted nonveteran critical and noncritical COVID-19 patients.¹¹⁴ Furthermore, the VHA is providing laboratory services, pharmaceutical and medication supply through the National Acquisition Center (NAC), and mobile pharmacy units, among others, as requested by FEMA/HHS.¹¹⁵

Congressional Response

In response to the COVID-19 pandemic, Congress passed several measures to provide the VA with supplemental appropriations and provided temporary statutory changes to enhance veterans’ benefits and services during this public health emergency.

Families First Coronavirus Response Act (P.L. 116-127)

Supplemental Appropriations and Cost-Sharing

On March 18, 2020, the President signed into law the Families First Coronavirus Response Act (P.L. 116-127). The act provides \$30 million for VHA’s medical services account to fund health services and related items pertaining to COVID-19, and \$30 million for VHA’s medical community care account (see **Table 1**).¹¹⁶ These funds are designated as emergency spending and are to remain available until September 30, 2022. Among other things, the act does not allow the VA to charge any copayment or other cost-sharing payments for COVID-19 testing or medical visits during any period of this public health emergency.¹¹⁷

P.L. 116-128

Education Assistance

P.L. 116-128, as enacted on March 21, 2020, allows the VA to continue to provide GI Bill benefits from March 1, 2020, through December 21, 2020, for courses at educational institutions that are

¹¹⁴ Department of Veterans Affairs, “VA to assist New York City with COVID-19 response,” press release, March 29, 2020, <https://www.va.gov/opa/pressrel/pressrelease.cfm?id=5406>. Department of Veterans Affairs, “VA New Jersey Health Care System, East Orange campus, to assist COVID-19 response,” press release, April 1, 2020, <https://www.va.gov/opa/pressrel/pressrelease.cfm?id=5410>.

¹¹⁵ A summary VA “Fourth Mission” actions is available at Department of Veterans Affairs, “VA announces ‘Fourth Mission,’ actions to help America respond to COVID-19,” press release, April 14, 2020, <https://www.va.gov/opa/pressrel/pressrelease.cfm?id=5420>.

¹¹⁶ VHA’s annual appropriations consist of five accounts: medical services, medical community care, medical support and compliance, medical facilities, and medical and prosthetic research accounts. The first four accounts cover the provision of health care and related services.

¹¹⁷ “Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak,” March 13, 2020, <https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/>; also at U.S. President (Trump), “Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak,” 85 *Federal Register* 53, March 18, 2020; and U.S. Department of Health and Human Services (HHS), “Secretary Azar Declares Public Health Emergency for United States for Coronavirus Disease 2019,” press release, January 31, 2020, <https://www.hhs.gov/about/news/2020/01/31/secretary-azar-declares-public-health-emergency-us-2019-novel-coronavirus.html>; <https://www.phe.gov/emergency/news/healthactions/phe/Pages/2019-nCoV.aspx>.

converted from in-residence to distance learning by reason of an emergency or health-related situation. P.L. 116-128 further permits the VA to pay the Post-9/11 GI Bill housing allowance as if the courses were not offered through distance learning throughout the same period. With the exception of those participants covered under this P.L. 116-128 exemption, Post-9/11 GI Bill participants enrolled exclusively in distance education are eligible for no more than one-half the national average of the housing allowance.

Coronavirus Aid, Relief, and Economic Security Act, “CARES Act” (P.L. 116-136)

Emergency Supplemental Appropriations

On March 17, 2020, the Administration submitted to Congress a supplemental appropriations request.¹¹⁸ The Administration sought \$16.6 billion for FY2020 for VA’s response to the COVID-19 outbreak. This amount included \$13.1 billion for the medical services account. According to the request, this additional amount would provide funding for “healthcare treatment costs, testing kits, temporary intensive care unit bed conversion and expansion, and personal protective equipment.” The request also included \$2.1 billion for the medical community care account to provide three months of health care treatment provided in the community in response to COVID-19. The VA assumes that about 20% of care for eligible veterans will be provided in the community, since community care facilities would be at full capacity with nonveteran patients.

Furthermore, the emergency supplemental appropriations request included

- \$100 million for the medical support and compliance account to provide 24-hour emergency management coordination overtime payments, to cover costs associated with travel and transport of materials, and to enable VHA’s Office of Emergency Management to manage its response to COVID-19;
- \$175 million for the medical facilities account to upgrade VA medical facilities to respond to the virus; and
- \$1.2 billion for the information technology systems account to upgrade telehealth and related internet technology to deliver more health care services remotely.

On March 27, the President signed into law the CARES Act (P.L. 116-136). Division B of this act included an emergency supplemental appropriations measure. Title X of Division B provides supplemental appropriations for FY2020 for certain VA accounts totaling \$19.6 billion, and is designated as emergency spending. Unless otherwise noted below, funds remain available until September 30, 2021. Funding provided in the CARES Act is broken down as follows (see **Table 1**):¹¹⁹

- VBA, general operating expenses account, \$13 million, for enhancing telework support for VBA staff and for additional cleaning contracts.
- VHA, medical services account, \$14.4 billion, for increased telehealth services; purchasing of additional medical equipment and supplies, testing kits, and

¹¹⁸ Letter from Russell T. Vought, Acting Director, Office of Management and Budget, Executive Office of the President, to the Honorable Michael R. Pence, President of the Senate, March 17, 2020.

¹¹⁹ Based on Senate Appropriations Committee, Coronavirus Supplemental Appropriations Summary, available at <https://www.appropriations.senate.gov/download/coronavirus-emergency-supplemental-appropriations-summary>.

personal protective equipment; and to provide additional support to homeless veterans, among other things.

- VHA, medical community care account, \$2.1 billion, for increased emergency room and urgent care usage in the community.
- VHA, medical support and compliance account, \$100 million, for the provision of 24-hour emergency management coordination overtime payments, and for costs associated with travel and transport of materials.
- VHA, medical facilities account, \$606 million, for the procurement of mobile treatment facilities, improvements in security, and nonrecurring maintenance projects.
- VA, general administration account, \$6.0 million, for maintaining 24-hour operations of crisis response and continuity of operations plans at VA facilities, among other things.
- VA, information technology systems account, 2.2 billion, for increased telework capacity, purchasing additional laptops for telework and telehealth-enabled laptops for VHA providers to work from home, and to increase bandwidth and IT infrastructure needs, among other things.
- VA, Office of Inspector General account, \$12.5 million, for increased oversight of VA’s preparation and response to COVID-19 (funds remain available until September 30, 2022).
- VA, grants for construction of state extended care facilities account, \$150 million, to assist state homes to renovate, alter, or repair facilities to respond to COVID-19.

Table 1. Department of Veterans Affairs, Regular and COVID-19 Appropriations, FY2020

(\$ in Thousands)

Program	FY2020 Request	FY2020 Enacted
Veterans Benefits Administration (VBA)		
Compensation and pensions	\$109,017,152	\$109,017,152
Over FY2020 advance appropriations	—	1,439,931
<i>Subtotal compensation and pensions</i>	<i>109,017,152</i>	<i>110,457,083</i>
Readjustment benefits	14,065,282	14,065,282
Insurance and indemnities	111,340	111,340
Over FY2020 advance appropriations	17,620	17,620
<i>Subtotal insurance and indemnities</i>	<i>128,960</i>	<i>128,960</i>
Housing programs administrative expenses	200,377	200,377
Vocational rehabilitation loan program	58	58
Vocational rehabilitation loan administrative expenses	402	402

Program	FY2020 Request	FY2020 Enacted
Native American housing loan program	1,163	1,186
General operating expenses, VBA	3,000,000	3,125,000
CARES Act (P.L. 116-136)	13,000	13,000
<i>Subtotal general operating expenses, VBA</i>	<i>3,013,000</i>	<i>3,138,000</i>
Total, VBA	126,426,394	127,991,348
National Cemetery Administration (NCA)		
NCA	329,000	329,000
Rescission (P.L. 116-94)	—	-1,000
Total NCA	329,000	328,000
Veterans Health Administration (VHA)		
Medical services	51,411,165	51,411,165
Rescission (P.L. 116-94)	—	-350,000
Families First Coronavirus Response Act (P.L. 116-127)	—	30,000
CARES Act (P.L. 116-136)	13,100,000	14,432,000
<i>Subtotal medical services</i>	<i>64,511,165</i>	<i>65,523,165</i>
Medical community care	10,758,399	10,758,399
Over FY2020 advance appropriations	4,521,400	3,906,400
Transfer from Veterans Choice Fund (VCF) to Community Care (P.L. 116-94)	—	615,000 ^a
Families First Coronavirus Response Act (P.L. 116-127)	—	30,000
CARES Act (P.L. 116-136)	2,050,000	2,100,000
<i>Subtotal medical community care</i>	<i>17,329,799</i>	<i>17,409,799</i>
Medical support and compliance	7,239,156	7,239,156
Over FY2020 advance appropriations	98,800	98,800
Rescission (P.L. 116-94)	—	-10,000
CARES Act (P.L. 116-136)	100,000	100,000
<i>Subtotal medical support and compliance</i>	<i>7,337,956</i>	<i>7,427,956</i>
Medical facilities	6,141,880	6,141,880
CARES Act (P.L. 116-136)	175,000	606,000
<i>Subtotal medical facilities</i>	<i>6,316,880</i>	<i>6,747,880</i>
Medical and prosthetic research	762,000	800,000
Rescission (P.L. 116-94)	—	-50,000

Program	FY2020 Request	FY2020 Enacted
<i>Subtotal medical and prosthetic research</i>	762,000	750,000
Total, VHA (without collections)	96,357,800	97,858,800
Medical Care Collection Fund (MCCF)	3,729,000	3,729,000
Total, VHA (with collections)	100,086,800	101,587,800
Departmental Administration		
General Administration	369,200	355,911
CARES Act (P.L. 116-136)	7,000	6,000
<i>Subtotal general administration</i>	376,200	361,911
Board of Veterans Appeals	182,000	182,000
Rescission (P.L. 116-94)	—	-8,000
<i>Subtotal Board of Veterans Appeals</i>	182,000	174,000
Information technology	4,343,000	4,371,615
CARES Act (P.L. 116-136)	1,150,000	2,150,000
<i>Subtotal information technology</i>	5,493,000	6,521,615
Electronic Health Records Modernization (EHRM)	1,603,000	1,500,000
Rescission (P.L. 116-94)	—	-70,000
<i>Subtotal EHRM</i>	1,603,000	1,430,000
Inspector General	207,000	210,000
CARES Act (P.L. 116-136)	—	12,500
<i>Subtotal Inspector General</i>	207,000	222,500
Construction, major projects	1,235,200	1,235,200
Construction, minor projects	398,800	398,800
Grants for state extended care facilities	90,000	90,000
CARES Act (P.L. 116-136)	—	150,000
<i>Subtotal grants for state extended care facilities</i>	90,000	240,000
Grants for state veterans cemeteries	45,000	45,000
Total, Departmental Administration	9,630,200	10,629,026
Administrative Rescission (P.L. 116-94)	—	-15,949
Total, Department of Veterans Affairs (without collections)	\$232,743,394	\$236,791,225

Source: Table prepared by CRS based on the Further Consolidated Appropriations Act, 2020 (P.L. 116-94); the Families First Coronavirus Response Act (P.L. 116-127); and the Coronavirus Aid, Relief, and Economic Security Act (P.L. 116-136).

- a. The Further Consolidated Appropriations Act, 2020 (P.L. 116-94), authorized a mandatory balance transfer of \$615 million from the Veterans Choice Fund (VCF) established by 802(c)(4) of the Veterans Access, Choice, and Accountability Act of 2014, as amended (38 U.S.C. 1701 note) to the medical community care account.

General CARES Act Provisions Affecting VA Programs and Services

Section 20001. Transfer of Funds

This section allows the VA to transfer funds between the medical services, medical community care, medical support and compliance, and medical facilities accounts. The VA can make any transfer that is less than 2% of the total amount appropriated to an account and may follow after notifying the congressional appropriations committees. Any transfer that is greater than 2% of the total amount appropriated to an account or exceeding a cumulative 2% for all of the funds appropriated to the VA in the CARES Act requires Senate and House Appropriations Committee approval.

Section 20002. Monthly Reports

This section requires the VA to provide monthly reports to the Senate and House Appropriations Committees detailing obligations, expenditures, and planned activities for all the funds provided to the VA in the CARES Act.

Section 20003. Public Health Emergency

This section defines a public health emergency as an emergency with respect to COVID-19 declared by a federal, state, or local authority.

Section 20004. Short-Term Agreements or Contracts with Telecommunications Providers to Expand Telemental Health Services for Isolated Veterans During A Public Health Emergency

The VHA provides telehealth services to veteran patients in their communities from any location in the United States, including U.S. territories, the District of Columbia, and the Commonwealth of Puerto Rico.¹²⁰ Section 20004 defines telehealth as “the use of electronic information and telecommunications technologies to support and promote long-distance clinical health care, patient and professional health-related education, public health, and health administration.” Examples of telecommunications technologies include the internet, videoconferencing, streaming media, and terrestrial and wireless communications. This section allows the VA Secretary to enter into short-term agreements or contracts with telecommunications companies to expand veteran patients’ access to *telemental health care services*.¹²¹ The goal of the short-term agreements and contracts is for the telecommunications companies to provide temporary, complimentary, or subsidized fixed and mobile broadband services to veteran patients. The Secretary is allowed to enter into short-term agreements or contracts with telecommunications companies only during the period of the COVID-19 outbreak. During this period, covered veteran patients can assess VA telemental health care services through telehealth and the VA Video Connect (VVC) mobile

¹²⁰ 38 U.S.C. §1730C. To learn more about VA telehealth services, see CRS Report R45834, *Department of Veterans Affairs (VA): A Primer on Telehealth*.

¹²¹ *Telemental health care services* refers to the delivery of mental health care services via telehealth.

application, which the act refers to as the VA program that connects veteran patients with their health care teams using encryption.¹²² Veteran patients can access the VVC on their mobile devices, such as laptops and smartphones.

The short-term agreements or contracts with telecommunications companies must address the telemental health care needs of isolated veterans; therefore, the VA Secretary must prioritize eligibility to veterans who either have low-incomes, live in unserved and underserved areas, reside in rural and highly rural areas,¹²³ or are considered by the Secretary as having a higher risk of committing suicide and mental health care needs while being isolated during the COVID-19 outbreak. The VA, however, may expand eligibility for telemental health care services to veteran patients who are currently receiving VA care but who are ineligible to receive mental health care services and other health care services through telehealth and/or the VVC.

Section 20005. Treatment of State Homes During Public Health Emergency

The state veterans' home program is a federal-state partnership to construct or acquire nursing home, domiciliary, and adult day health care facilities. VA provides assistance to states in three ways: First, VA provides states with up to 65% of the cost to construct, acquire, remodel, or modify state homes. Second, VA provides per diem payments to states for the care of eligible veterans in state homes. VA may adjust the per diem rates each year.¹²⁴ A state home is required to meet all VA standards in order to continue to receive per diem payments. Third, VA is required to support states financially to assist state homes in the hiring and retention of nurses to reduce nursing shortages at state veterans' homes.

This section modifies the treatment of state homes during the public health emergency by (1) waiving requirements for per diem reimbursements for state homes under the VHA State Home Per Diem Program and (2) authorizing the Secretary to provide equipment to state homes. The section waives the occupancy rate requirement under 38 C.F.R. Section 51.40(c), authorizing a state home to receive per diem payments for veterans who are temporarily absent from nursing home care regardless of the state home's occupancy rate. In addition, the section waives the requirement under 38 C.F.R. Section 51.210(d) that a state home must maintain a certain percentage of veteran residents. Lastly, the section authorizes the Secretary to provide state homes with medication, personal protective equipment, medical supplies, and any other equipment, supplies, and assistance available to VA. The personal protective equipment may be provided through the All Hazards Emergency Cache in addition to any other source available.

Section 20006. Modifications to Veteran Directed Care Program of Department of Veterans Affairs

The Veteran Directed Care Program helps isolated veterans who need assistance with activities of daily living or instrumental activities of daily living, and who are at high risk of nursing home placement, to live in their own homes. Veterans in this program are provided a budget for services that can be managed by the veteran or a family caregiver.¹²⁵

¹²² To learn more about the VA Video Connect mobile application, see CRS Report R45834, *Department of Veterans Affairs (VA): A Primer on Telehealth*.

¹²³ Priority for veteran patients who live in rural and highly rural areas must align with the rural-urban commuting area (RUCA) codes, which are developed by the U.S. Department of Agriculture (USDA). To learn more about the RUCA codes, see UDSA, *RUCA*, <https://www.ers.usda.gov/data-products/rural-urban-commuting-area-codes/>.

¹²⁴ 38 U.S.C. §§ 1741-1745.

¹²⁵ https://www.va.gov/geriatrics/pages/Veteran-Directed_Care.asp.

This section modifies the Veterans Directed Care Program during the public health emergency to require that the Secretary (1) accept telephone or telehealth enrollments and renewals; (2) stop all suspensions or disenrollments unless requested by a veteran or representative, or the veteran and provider make a mutual decision; (3) waive paperwork requirements and penalties for late paperwork; and (4) waive any requirement to stop payments under the program if the veteran or caregiver is out of state for more than 14 days.

Section 20007. Provision by Department of Veterans Affairs of Prosthetic Appliances through Non-Department Providers During Public Health Emergency

In general, VHA prosthetics staff are responsible for providing and fitting prosthetic appliances that meet the best medical needs of the veteran patient. This provision requires the Secretary to ensure that eligible veterans receiving or requiring prosthetic appliances and services are able to obtain them from contracted non-VA providers during this emergency period.

Section 20008. Waiver of Pay Caps for Employees of Department Of Veterans Affairs During Public Health Emergencies

Under existing regulations, certain VA employees may not receive any combination of premium pay, including overtime pay, that, when added to their base pay, results in total pay above the higher of two rates: GS-15, step 10, or the rate payable for Level V of the Executive Schedule on a biweekly basis. This provision allows the Secretary waive any limitation on pay for any employee of the VA during a public health emergency for work done in support of the emergency. The Secretary is required to provide reports on a monthly basis to the Senate and House Committees on Veterans' Affairs detailing the waivers.

Section 20009. Provision by Department of Veterans Affairs of Personal Protective Equipment for Home Health Workers

This section requires the Secretary to provide VA home health workers with personal protective equipment from the All Hazards Emergency Cache or any other available source.

Section 20010. Clarification of Treatment of Payments for Purposes of Eligibility for Veterans Pension and Other Veterans Benefits

Under ordinary circumstances, eligibility for a VA pension is, in part, based upon the annual income of the individual. Generally, "all payments of any kind or from any source (including salary, retirement or annuity payments, or similar income, which has been waived, irrespective of whether the waiver was made pursuant to statute, contract, or otherwise) shall be included" when calculating a veteran's annual income.¹²⁶

This provision of the CARES Act excludes the recovery rebate from a veteran's annual income, thereby preventing it from counting towards the income limit associated with pension eligibility. It explicitly states that the rebate "shall not be treated as income or resources for purposes of determining eligibility for pension under chapter 15 of title 38." Consequently, the direct individual payment included in the CARES Act will not affect a veteran's eligibility for a VA pension.

¹²⁶ 38 U.S.C. § 1503.

Section 20011. Availability of Telehealth for Case Managers and Homeless Veterans

Formerly homeless veterans participating in the HUD-VASH program are assigned VA case managers to assist with their health and other needs. This section requires the VA to ensure that telehealth capabilities are available to veterans and case managers participating in HUD-VASH.¹²⁷

Section 20012. Funding Limits for Financial Assistance for Supportive Services for Very Low-Income Veteran Families in Permanent Housing During A Public Health Emergency

The SSVF program, which provides short- to medium-term rental assistance and supportive services to homeless veterans and their families, is authorized at \$380 million through FY2021. Without legislative authority, the VA cannot obligate additional funding for the program. This provision removes the SSVF funding limitation in cases of public health emergencies.

Section 20013. Modifications to Comprehensive Service Programs for Homeless Veterans During A Public Health Emergency

The Homeless Providers Grant and Per Diem (GPD) program provides grants to public entities and private nonprofit organizations for the capital costs associated with developing facilities to serve homeless veterans and also makes per diem payments to grantees for the costs of providing housing and supportive services to homeless veterans. Together, grant and per diem funding is authorized at approximately \$258 million per year. In addition, grant costs are limited to 65% of the costs of acquisition, construction, expansion, or remodeling of facilities, and per diem payments are limited to the VA domiciliary care per diem rate, which, for FY2020, is \$48.50 per day. This section allows additional appropriations for the GPD program in cases of public health emergencies notwithstanding the FY2020 authorization level, and it also allows the Secretary to waive statutory limitations on grant and per diem payments to grantees.

Generally, VA, under GPD guidance, requires providers to discharge veterans residing in GPD housing who are absent for more than 14 days. In addition, VA will not make per diem payments after a veteran has been absent for more than 72 consecutive hours. This section requires the VA Secretary to waive the discharge requirement and allows the Secretary to reimburse providers for veterans who have been absent for more than 72 hours.

Student Veteran Coronavirus Response Act of 2020 (P.L. 116-140)

The Student Veteran Coronavirus Response Act of 2020 (P.L. 116-140), as enacted on April 28, 2020, responds to concerns that abrupt and temporary closures or suspensions of educational institutions, programs of education, and employment could negatively impact the short-term finances of eligible beneficiaries and their continued pursuit of educational programs. Eligible beneficiaries include participants in several VA educational assistance programs and Vocational Rehabilitation and Employment (VR&E).¹²⁸ The act provides special authorities for the period

¹²⁷ For more information about telehealth, see CRS Report R45834, *Department of Veterans Affairs (VA): A Primer on Telehealth*.

¹²⁸ For information about VR&E, see CRS Report RL34627, *Veterans' Benefits: The Vocational Rehabilitation and Employment Program*.

beginning on March 1, 2020, and ending on December 21, 2020, including academic terms beginning prior to December 21, 2020. Selected sections of the bill are discussed below.

Section 3. Payment of Work-Study Allowances During Emergency Situations

The Veterans Work-Study Program allows GI Bill and VR&E participants to receive additional financial assistance through the VA in exchange for employment. Provisions in this section permit Work-Study payments in accordance with an existing Work-Study agreement or at a lesser amount despite the participant's inability to perform work by reason of an emergency situation. These provisions further require the VA to extend an existing agreement for a subsequent period beginning during the covered period if requested by the Work-Study participant.

Section 4. Payment of Allowances to Veterans Enrolled in Educational Institutions Closed for Emergency Situations

The VA has authority under 38 U.S.C. Section 3680(a)(2)(A) to pay GI Bill and VR&E allowances for up to four weeks when an educational institution temporarily closes under an established policy based on an Executive order of the President or due to an emergency situation.¹²⁹ The provisions in this section permit GI Bill and VR&E payments for up to four weeks, in addition to any payments under 38 U.S.C. Section 3680(a)(2)(A), if an educational institution closes or the program of education is suspended due to an emergency situation.

Section 5. Prohibition of Charge to Entitlement of Students Unable to Pursue a Program of Education Due to an Emergency Situation

In general, the GI Bills provide eligible persons a 36-month entitlement to educational assistance. GI Bill entitlement is restored in the following instances:

- for an incomplete course if an individual is unable to receive credit or lost training time as a result of an educational institution closing;
- for an incomplete course if an individual is unable to receive credit or lost training time because the course or program is disapproved by a subsequently established or modified policy, regulation, or law; and
- for the interim (through the end of the academic term but no more than 120 days) Post-9/11 GI Bill housing allowance paid following either a closure or disapproval.

The provisions in this section require that the VA restore entitlement for an incomplete course if an individual is unable to receive credit or lost training time as a result of a temporary closure of an educational institution or the temporary termination of a course or program of education by reason of an emergency situation.

Section 6. Extension of Time Limitations for Use of Entitlement

Many GI Bill participants must use their educational entitlement within a specified time period beginning upon discharge or release from active duty or eligibility. There are notable exceptions to the time limitation. For example, Post-9/11 GI Bill participants whose last discharge or release

¹²⁹ 38 U.S.C. §3680(a)(2)(A). The provision might not apply to GI Bill benefits for pursuit of training establishment or correspondence courses, VET TEC, or Work-Study. Payments cannot continue into an interval period between enrollment periods.

from active duty was on or after January 1, 2013, are not subject to a time limitation. The provisions in this section exempt from the time limitation, the period during which an individual is prevented from pursuing a program of education because the educational institution closed (temporarily or permanently) under an established policy based on an Executive order of the President or due to an emergency situation until the individual is able to resume pursuit. The provisions are applicable to the Montgomery GI Bill-Active Duty (MGIB-AD) 10-year limitation, the Post-9/11 GI Bill 15-year limitation and age limitation for children using transferred benefits, the VR&E 12-year limitation and the period of a veteran's vocational rehabilitation program, and the Montgomery GI Bill-Selected Reserve (MGIB-SR) limitation.

Section 7. Restoration of Entitlement to Rehabilitation Programs for Veterans Affected by School Closure or Disapproval

Typically, programs under VR&E are limited to 48 months of entitlement and veterans pursuing an education program under VR&E must be enrolled to receive a subsistence allowance. For the covered period, the provisions in this section extend protections from entitlement charges following school closures that are established for the GI Bills to veterans participating in education programs under the VR&E program. The provisions further allow the VA to (1) continue paying subsistence allowances to VR&E participants through the end of the academic term but no more than 120 days following either a closure or disapproval and (2) prohibits VA from charging the impacted term against a veteran's VR&E entitlement if the veteran did not receive credit for classes.

Section 8. Extension of Payment of Vocational Rehabilitation Subsistence Allowances

The provisions in this section provide two additional months of subsistence allowance to veterans who were following a program of employment services under the VR&E program during the covered period.

Appendix. VHA Emergency Powers

Table A-1. VHA's Emergency Powers

An Overview of Governing Legal Authorities and VA Regulations and Policies

Issue	Authority	Description
VA Hospital Care and Treatment		
Veterans	38 U.S.C. Chapters 17, 73; 38 C.F.R. §§17.36-17.38	VHA's primary function "is to provide a complete medical and hospital service for the medical care and treatment of veterans" (38 U.S.C. §7301).
Other VA Beneficiaries	38 U.S.C. §1781; 38 C.F.R. §§17.250-17.251	VA may provide health care to certain veterans' spouses, surviving spouses, and children.
Members of the Armed Forces	38 U.S.C. §8111A; VHA Directive 0320 (2013)	VA may furnish hospital care and medical services to members of the Armed Forces during a time of war or national emergency.
Non-VA Beneficiaries, Generally	38 U.S.C. §§1784, 1784A 38 C.F.R. §§17.37, 17.43, 17.95, 17.102	VA may provide hospital care or medical services as a humanitarian service but must charge for such care; VA may also provide treatment for emergency medical conditions and women in labor.
Non-VA Beneficiaries in a Disaster or Emergency	38 U.S.C. §1785; VHA Directive 0320 (2013)	VA may provide hospital care and medical services to individuals responding to, involved in, or otherwise affected by a national disaster or emergency.
Priorities for Providing Medical Care	38 U.S.C. §8111A; 38 C.F.R. §17.49	VA must give treatment priority to veterans with service-connected disabilities rated 50% or greater and to veterans needing care for service-connected disabilities; VA may then give priority to members of the Armed Forces.
Sharing Health Care Resources		
General Authority	38 U.S.C. §8153; VHA Directive 1660.01 (2018)	VA has authority to enter into agreements for the mutual use or exchange of resources with non-VA facilities "to secure health-care resources which otherwise might not be feasibly available" (38 U.S.C. §8513(a)(1)).
Department of Defense	38 U.S.C. §8111; VHA Directive 1660 (2015)	VA and DOD are required to enter into agreements to share health care resources to improve "the access to, and quality and cost effectiveness of" each department's health care services (38 U.S.C. §8111(a)).

Issue	Authority	Description
Quarantine and Isolation		
General Authority	42 U.S.C. §§264, 266; 42 C.F.R. parts 70, 71; State, Local, and Tribal law	VA has no specific authority to involuntarily quarantine or isolate patients, and instead must rely on each state's laws, as well as instructions from the Centers for Disease Control and Prevention and, in times of war, instructions from the Surgeon General ^a
VA Provider Liability		
General Liability	28 U.S.C. §§1326(b), 2671-80; 38 U.S.C. §7316	VA health care providers acting within the scope of their employment are shielded from personal liability, but victims of medical malpractice or other injury may sue the United States under the Federal Tort Claims Act (FTCA). ^b
Declared Emergencies and Major Disasters Under the Stafford Act	42 U.S.C. §5148	Neither the U.S. government nor VA health care providers are liable for “any claim based upon the exercise or performance of or the failure to exercise or perform a discretionary function or duty” in responding to a declared emergency or major disaster (Robert T. Stafford Disaster Relief and Emergency Assistance Act §305, 42 U.S.C. §5148 [2018]).
Transportation of Employees		
In General	31 U.S.C. §1344(a)	VA may use government vehicles to transport employees only for official purposes, which does not include transportation to or from an employee's residence.
During an Emergency	38 U.S.C. §703(f)	If the Secretary determines an emergency exists, VA may transport employees between their places of employment and the nearest public transportation or, if public transit is unavailable or infeasible, their residences, but the Secretary must “establish reasonable rates to cover the cost of the service” (38 U.S.C. §703(f)(2)).
Credentialing and Privileging Health Care Providers		
In General	38 U.S.C. §7402; VHA Directive 2012-030 (2012)	Health care providers generally must be fully credentialed prior to their initial appointments.

Expedited and Disaster Appointments	VHA Directive 2012-030 attachment D	VA provides expedited credentialing procedures in the best interest of patient care and in response to disasters and emergencies.
VA Disaster Emergency Medical Personnel System		
In General	VHA Directive 0320 (2013); VHA Handbook 0320.03 (2008)	The VA Disaster Emergency Medical Personnel System (DEMPS) program allows VA medical providers to register as volunteers to respond to domestic disasters and emergencies by deploying to affected VA facilities or other locations as required.

Source: Adapted and updated by CRS from Department of Veterans Affairs, VA Pandemic Influenza Plan app. B-2 (2006).

- a. Department of Veterans Affairs, VA Pandemic Influenza Plan app. B-2 (2006). For an overview of the federal government's quarantine authority, see *Legal Authorities for Isolation and Quarantine*, Centers for Disease Control and Prevention, <https://www.cdc.gov/quarantine/aboutlawsregulationsquarantineisolation.html> (last visited March 18, 2020).
- b. For more information on the FTCA, see CRS Report R45732, *The Federal Tort Claims Act (FTCA): A Legal Overview*, by Kevin M. Lewis.

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