

April 15, 2013

OSC File No. DI-12-4217

Ms. Pennington,

Please pass along my thanks to the Secretary and my appreciation for being given the opportunity to respond to the Secretary's March 21, 2013 reply.

#### **Areas of Agreement**

1. I concur with the Secretary's conclusion that the most immediate and pressing issue has been resolved. On April 8, 2013, after almost 22 years of non-compliance, VA Manila is now dispensing FDA approved controlled drugs to our Veterans. This occurred, because McKesson the Pharmaceutical Prime Vendor (PPV) has finally agreed to honor the legal requirements of the PPV contract and support all VA locations to include the Philippines.

2. I concur with the recommendation that additional policies need to be developed for the Philippines Manila VA. Currently the Manila staff spends an inordinate amount of time trying to interpret what various policies *should* or *may* be...and often times Veterans lives hang in balance, or relatively low ranking VA employees careers are placed at risk, while these decisions are being made. It is not the OSC's job to run the VA, so my only comments on this recommendation is that the "devil is in the details." The Outpatient Clinic has been in Manila for almost 50 years, and these policies still don't exist, so all I can hope is that the benign neglect does not continue. The VA Secretary has accepted my recommendation that the next SES Director in Manila will come from the VHA part of VA and not the VBA. I am hopeful that this critical decision will result in completion of the actions the VA has promised.

3. I concur that the FMP process for reimbursing non-FDA approved drugs according to 38 CFR 17.38 (c) (3) should be clarified.

#### **Areas of Disagreement**

Where I part company with the Secretary's conclusions is that there was "no gross mismanagement, gross waste of funds, or substantial and specific danger to public health and safety."

The VA Under Secretary for Health either intentionally omitted or does not understand the definition of 1) "proactive" or "FDA Approved Manufacturing Facility."

#### **Definitions**

**Proactive:** Serving to prepare for, intervene in, or control an expected occurrence or situation, especially a negative or difficult one; anticipatory

The VA repeatedly states how “proactive” they have been in resolving these matters. The fact is that the non-FDA approved controlled situation existed for almost 22 years and the lack of Manila policy has existed for almost 50 years. Even by VA standards this surely cannot be considered “proactive?” In fact, it was only the actions of a whistle blower (who just did not complain, but developed the solution that the VA is using today and should have developed in 1992) who is being retaliated against; that a chain of events began that finally resulted in safe FDA approved drugs now being available in Manila VA. Let there be no mistake on this matter, the proper term to describe the VA’s actions was something significantly less than even **Reactive**, which is defined as being *responsive* to a stimulus.

**FDA Approved Manufacturing Facility:** The Food and Drug Administration (FDA) is the federal agency responsible for making sure that food, drugs and other consumer products are safe to use. The FDA keeps an up-to-date database of all of the firms that are registered with it and regulated by it.

None of the controlled drugs purchased by the VA in Manila, for over 22 years, were purchased from FDA approved manufacturing facilities...zero. The intent of the FDA approval process is to insure that drugs are manufactured in safe, clean facilities and proper formulas are rigidly maintained during manufacturing process. The VA confuses (either willfully or ignorantly) the difference between a drug being FDA approved *and also* being manufactured in an FDA inspected and approved manufacturing facility. For example, Oxycodone is an FDA approved drug. However, to be used by the VA...or any responsible US Government Agency...Oxycodone that is dispensed must come from an FDA approved manufacturing facility. Not only did the VA not purchase controlled drugs from FDA approved manufactures, instead the VA purchased drugs in a 3<sup>rd</sup> world country with at best questionable inspection processes and the Philippines, by the VA’s own definitions is one of the most fraud prevalent places in the world and prevention of fraud is repeatedly noted by the VA as being the primary reason the VA even has a location in the Philippines. Please see attached GAO Audit GAO-12-20R, VA Philippines Office, and attached screen shot Word Document “Fake Drugs in the Philippines.” Essentially, the VA has no idea and no medical documentation to determine if any of the Veterans we serve in the Philippines were ever harmed by the non FDA approved drugs that were dispensed for over 22 years. Absence of any specific complaints does not equate to absence of a problem. For the past 22 years, over 25,000 Veterans have been dispensed drugs at VA Manila...and all 25,000 of the Veterans had every expectation that they were being dispensed safe FDA Approved medications....not 3<sup>rd</sup> world, potentially life threatening, knock-offs.

### **Fake Drugs in the Philippines**

I generally concur that it is not possible or even reasonable to expect that drugs dispensed in any foreign country hospitals (not just the Philippines) be FDA safe/approved. This does not apply just to Veterans, but also too many millions of US Citizens who travel the world on either

business or pleasure. In-fact, most travel web sites, to include the State Departments, advise travelers to foreign countries to bring sufficient medications with them when they travel or live in foreign countries and also to be aware that they must use caution when purchasing drugs from foreign pharmacies, because of the uncertain pedigree of the medications they are purchasing. Some countries (such as the Philippines) are pointed out as being very susceptible to fake drugs being sold...drugs that appear to be safe. However, the key point (emphasis added) is that each and every traveler to a foreign country knows what he is getting into when he departs the USA and if that traveler does not do sufficient research before he begins his trip...only the traveler can be at fault, not the US Government or anyone else. However, when a Veteran does his research and decides to reside in the Philippines, he often times makes his decision because of the expectation that he will be provided safe and effective VA care...the same care the VA provides in the USA. When a Veteran receives his medications from the VA...in VA bottles with VA Prescriptions attached...every expatriation is that he has been provided safe medications by the VA....a reality that did not exist for 22 years at VA Manila. Any reasonable and responsible Veteran should be aware that when he is sent to a VA Fee-basis Hospital in the Philippines that the drugs he receives *in that hospital* may not be FDA approved. However, VA Manila makes every effort to ensure that as soon as the Veteran is discharged from the Hospital, or even while he is still there, that we provide him with VA furnished medications....medications that the Veteran surely must have assumed were FDA approved. There should be very little expectation from the Veteran or anyone else that the foreign hospital meets USA safety standards, because each and every Veteran residing in the Philippines had the responsibility to do the necessary research on medical care available in the Philippines and every source available states that while medical care in the foreign community is often good, it does not meet the same standards that the Veteran may be used to in the USA. For these reasons, I feel the VA is doing about the best as can be expected in paying for non-FDA manufactured drugs in the Philippines....while and only while a Veteran is hospitalized in a non-VA local Hospital. The only other option would be to deny paying for these drugs and that solution could be considered by the Veteran to be worse than taking the risk with using non-FDA drugs and having no medications at all. However, the key difference is that the Veteran has made a deliberate decision based on his desires, he has not been deceived into thinking he has been provided safe drugs....like VA Manila did for 22 years.

Additionally, the Department of Defense and State Department have employees scattered all over the world. Both DoD and State would never subject their people (for DoD soldiers and civilians and family members, and for State Dept., Civilian employees and family members) to being exposed to the dangers of taking non-FDA approved drugs and both of these Agencies have PPV programs in place that ensure only FDA approved drugs are dispensed and the very rare (life threatening emergency where there is no other option) times they must administer non-FDA approved drugs, the patient is advised and signs a waiver and an elaborate reporting system is in place to hopefully prevent recurrence in the future. VA Manila on the other hand...routinely prescribed non-FDA approved controlled drugs for 22 years and never informed the veterans involved.

## Disagreement #1

The VA has presented no clinical or other evidence that no “substantial and specific danger to public health and safety” of the 25,000 Veterans seen at the VA Manila over the past 22 years did not occur. While I doubt that there were many undocumented cases of the non-FDA approved medications that the VA dispensed resulted in immediate death similar to the Tylenol intentional poisoning case of the 1970’s, there is no evidence to prove that the drugs issued were of the proper strength and did not ultimately harm our Veterans. There is no documented evidence either from VA Medical Doctors or non-medical VA Administrators that any risk analysis was performed, that any laboratory/chemical analysis inspections were ever done on any of the non-FDA drugs that were prescribed. Keep in mind that the non FDA approved drugs that were prescribed by VA Manila were controlled drugs often times used for chronic pain relief and mental conditions of our Veterans. The VA’s inability to effectively deal with suicide among our Veterans is well documented. Now...our most vulnerable vets, those with mental conditions such as PTSD have been subjected to 3<sup>rd</sup> world knock-offs without their knowledge...absolutely disgraceful...by anyone’s terms. This conclusion is not just my own opinion. On February 1, 2012 at a House Committee on Veterans Affairs hearing (transcript attached) that examined deficiencies in the PPV program, The Deputy Secretary of Veterans Affairs W. Scott Gould stated with emphasis, “ At no time were our Veterans put at risk. The drugs supplied were FDA approved and complied with applicable Trade Agreement Act requirements with the exception of a portion of a single transaction of \$2,000.” The entire transcript of that hearing is attached, so there is no need for me to further embellish the tone and nature of the hearing. My question is this: Why would Deputy Secretary Gould state so emphatically that our Vets were only provided safe drugs, when sitting beside him was Steven A. Thomas, Director, National Contracting Service National Acquisition Center, U.S. Department of Veterans Affairs...a person who knew better and who was keenly aware VA Manila’s issues with the McKesson PPV non-performance in Manila. Mr. Thomas knew better, yet remained silent and may have actually prepared the Deputy Secretary’s testimony. Mr. Gould was unknowingly provided false information which he then described as true. The only truth in Mr. Gould’s statement, was in what he *implied*, not what he said. Mr. Gould implied that to dispense non-FDA approved drugs to our Vets would be dangerous and he was correct. Let there be no mistake, by the VA’s own implications, it is dangerous to Vets to prescribe non-FDA approved drugs and by definition “a substantial and specific danger to public health and safety” was caused...for over 22 years. There can be no other conclusion that a rational person would accept.

Fortunately, there is a partial solution to mitigate this disgrace; **VHA HANDBOOK 1004.08, DISCLOSURE OF ADVERSE EVENTS TO PATIENTS**, is the VA’s method of clarifying the relationship between clinical, institutional, and large-scale disclosure to emphasize that disclosing an adverse event is a process that may require any or all types of disclosure. I have attached an electronic version of this Handbook and respectfully request that the VA immediately comply with its own guidelines and begin a notification process for the 25,000 Vets who may have been impacted by the

harmful effects of taking non-FDA approved drugs issued by the VA.

## Disagreement #2

“That there was no gross mismanagement, gross waste of funds.” Just the opposite is the case, Gross is in this context is defined by “flagrant and extreme.” For VA Manila in addition to being forced to prescribe non-FDA approved drugs, we were also forced to spend triple the cost we would have incurred if the controlled drugs had been provided as mandated by the PPV Contract (attached). For VA Manila, *triple* cost equated to approximately \$2,000 per day, 365 days per year. That amount equals \$730 thousand per year for over eight years that McKesson has had the PPV contract, or over \$6.5 million. Perhaps to the VA, this amount is not “gross” but to most reasonable people this amount exceeds gross....especially since the drugs being purchased were not even FDA approved. Where gross mismanagement occurred by the VA was not in Manila, and not with Sierra Pacific Network 21, but instead with Steven A. Thomas, Director, National Contracting Service National Acquisition Center (NAC), U.S. Department of Veterans Affairs and Mr. German S. Arcibal, Senior Contract Specialist at NAC. These gentlemen either were intentionally or willfully blind...or worse...did not mandate that McKesson perform to the terms of the PPV contract. I am attaching that entire contract, but the every first paragraph is most telling;

“The PPV contract covers the 50 United States, Washington, DC, Puerto Rico, U.S. Virgin Islands, Saipan, and the Philippines.” There is no exception or other clause for not complying with the Philippines. In fact, McKesson did not feel comfortable with complying with the Philippines as advised by their own legal staff. McKesson is not a “minor league” company, their global business is over \$100 billion per year and presumably they have a substantial legal department who knows what they are doing. If McKesson did not want to comply with the terms of the contract, then McKesson should have requested a modification of the PPV to *exclude* the Philippines. However, that process would have meant opening up the contract to competitors who were willing and able (with a demonstrated track record with DoD and State Dept.) to support the Philippines and McKesson was naturally not anxious to ask for a modification and risk losing the PPV contract. However, the real problem was that the NAC simply was either willfully blind or ignorant and not only allowed McKesson to avoid their responsibility, they even refused to force McKesson to devise a solution and instead wasted many years forcing Sierra Pacific Network 21, who was ill suited to do so...provide a solution. The entire reason for having PRIME Vendor contracts in the first place, such as the PPV, is to pass the risk on to the Vendors and remove the risk and costs from the Government. However, the gross mismanagement does not stop here. NAC routinely renewed McKesson’s contract and authorized substantial performance bonuses. These actions are so troubling that it brings into question just how “cozy” the relation between senior NAC officials and McKesson may have been and I am requesting that OSC and the VA have the Department of Justice do a complete investigation and in addition to figuring out who at NAC was responsible... recoup any performance bonuses that were paid to McKesson and fine McKesson an amount equal to the

excessive \$6.5 million the VA Manila was forced to pay for non-FDA controlled drugs. I am also requesting that McKesson be held liable for any health issues that the 25 thousand affected Veterans in the Philippines may have suffered.

Additionally, the VA was forced to pay more than triple the PPV costs for the non-FDA approved drugs that were purchased in the Philippines. This situation screams for a criminal investigation of the NAC officials in charge of the PPV contract. For at least 8 years, the various Philippine companies who supplied the non-FDA approved drugs enjoyed windfall profits of at least \$500 thousand per year. The PPV contract is the VA's largest...over \$5 Billion. An investigation of all senior officials at NAC who either approved performance bonuses, or potentially needs to be immediately conducted. Step one in the investigation would be easy...ask to see the Passports of the senior NAC officials and see if they ever travel to the Philippines. While I have no proof of kick-backs being paid, the gross incompetence that occurred really can only have occurred for one or two reasons, either complete and total incompetence or for criminal reasons....there is just no other reasonable option to choose from...no US Government Agency has ever done anything on this magnitude for so many years, and then after being forced by OSC to correct the problem, reacted with essentially only a minor shrug and an obvious willingness to move on and pretend these events never occurred the past 22 years....and if they did occur "that there was "no gross mismanagement, gross waste of funds, or substantial and specific danger to public health and safety." Ridiculous.

### **Disagreement #3**

Throughout the Secretary's response, there was a conflicting theme that at times either tried to say the VA had been proactive, was not responsible, there was no viable solution...it was a difficult problem, claiming to not understand the various definitions and applications of "FDA Approved" or blaming the problem on conditions that were so unique and so challenging that solutions were just not easily obtained. Ridiculous. The solutions were and are simple and were immediately recognized by a low ranking GS-13 his first week at VA Manila in May 2011. Worse, there were many other disturbing and alarming problems that I will not cover now, because these areas have been previously reviewed by the VA and the good news is that almost 100% of the identified items have been fixed. This was confirmed by an OIG visit to VA Manila in mid April 2013. While I don't expect to ever be thanked for my actions to help fix things, the VA needs to change their culture so merit is rewarded and not punished.

The McKesson PV problem was *easy* to fix. The only difficult part was getting the NAC to force McKesson to comply. The solution of obtaining a DEA license was simply and took 10 minutes. However, the VA Manila Outpatient Clinic, was always considered to be on US territory, always under the Operational Control of the Ambassador to the Philippines and always allowed to fly and display the US Flag on even the leased property which was technically considered Embassy property. The VA Manila has always had a military or State Department mailing address that relies on secure US Postal Service. Most telling is the VA's insistence that VA Manila is unique

in terms of obtaining FDA controlled drugs from a PPV...again Ridiculous. The Department of Defense has over 350 Pharmacies scattered through the world and all of these Pharmacies obtain all their medications from a PPV contract. None of these Pharmacies are located on a US Embassy, so that excuse by McKesson is only a red herring. There is some question if even a DEA license is required. None of the DoD locations or US Embassies around the world are required to have DEA licenses; instead the PPV (in this case it should have been McKesson) maintains the DEA license on behalf of DoD. I am convinced that even the requirement for a DEA license was a red herring NAC officials and McKesson happily accepted, without doing any research. If they had done research (And it would not have been hard, I repeatedly pointed this out to NAC over the past 18 months) they would have discovered CFR-2012-title21-vol9-sec1305-13 (attached) and seen how easy the solution was. However, since obtaining a DEA license was so simple, the path of least resistance, as I saw it, was to obtain a DEA license. Again...this took 10 minutes and was done over the Internet. Obtaining the DEA license threw a big curve ball at NAC and McKesson and they then successfully delayed complying with the PPV contract for almost an additional 18 months (at a cost to the VA of \$2,000 per day). Again, if McKesson was uncomfortable supporting the Philippines all they had to do was notify NAC for a modification of the contract...and I have previously stated why McKesson and NAC did not want to follow the proper and legal path. I am attaching Air Force Instruction 41-209 which is a document that describes how the USAF, one of the four military services support their locations throughout the world to include foreign countries. Paragraph 4.16 describes support to foreign countries and in particular describes how rare and by exception non-FDA drugs would ever be procured on the local economy and the elaborate reporting procedures required. I suggest the VA study this carefully. The VA Secretary provides a reasonable explanation as to why it would not be practical to write every VA Handbook to also include Manila, the only VA location in a foreign country. However, what the VA Secretary did not note was that a large majority of the VA Senior Staff to include, Glenn D. Haggstrom, Executive Director, Office of Acquisitions, Logistics, and Construction, U.S. Department of Veterans Affairs...are retired Military officers who are presumably aware that DoD has solved/figured out many years ago how to support soldiers in foreign countries...with routine! It is without excuse that none of these senior VA officials spoke up and did not intercede to provide an immediate solution over 20 years ago...this level of incompetence could be expected and perhaps even understood by many VA employees without DoD experience. In fact, this incompetence spans multiple administrations showing many within VA choosing to ignore rather than to fix a problem they knew about. Instead of actually performing due diligence with duties, VA officials took the easy route and allowed the PPV McKesson to not comply with their contract and forced the VA in Manila to purchase non-FDA, unsafe drugs...and supply them to over 25 thousand Veterans for almost 22 years. Not excusable under any circumstances...criminal?...not sure, and that is why I am asking OSC and VA to collaborate with DOJ and do a complete criminal investigation. The PPV contract is almost a \$5 Billion program and only responsible competent people should be managing such a program with such

magnitude. If responsible people are not performing their jobs, then they need to be replaced....not rewarded with bonuses.

The problem with obtaining flu vaccinations for Vets in the Philippines was also described as having no solution. Ridiculous. The VA describes the challenge of different influenza strains requiring a vaccination administered in Southern Hemisphere. They VA claims this vaccination is not available from any FDA approved sources. Ridiculous. The Department of Defense deploys soldiers all over the world and DoD has been able to solve this problem and obtain safe vaccination supplies. I suggest the VA consult with DoD on a solution....and not wait 22 years to do so! The US Embassy in Manila has a solution. They offer both the US based FDA approved vaccination and the Philippines non-FDA approved version. However, they carefully explain to US Employees at the Embassy the risks and these employees are asked to sign a waiver to receive the non-FDA approved vaccination. The VA never asks Veterans in Manila to sign a waiver....instead they leave Vets with false impressions that they are being provided safe vaccinations and drugs.

The most glaring issue with how the VA has dealt with controlled drugs in Manila...is the **FACT** that no other Government Agency has ever done such an irresponsible act...never. DoD ensures that all of its soldiers deployed throughout the world have only safe FDA approved drugs available in their Pharmacies....using their PPV. US Embassies throughout the world all obtain their controlled drugs from DoD or if they must purchase non-FDA approved drugs, they inform the patient and ask them to sign a waiver. Most disturbing, is that my exhaustive research has shown that only VA Manila and no other US Government Agency has ever deceived their patients and made them feel like the medications they were receiving were safe. Even worse, by definition, all Veterans at one time were members of the US Military and they have come to expect and trust the US Government to not place their health at danger by knowingly providing non-FDA approved drugs and then keeping that fact a secret for the Veteran. Every Veteran in VA Manila has always had the understanding that they were being dispensed safe and reliable medications. Only a complete investigation will uncover how many medical problems....or even deaths may have been caused by dispensing of non-FDA approved drugs for over 22 years to 25 thousand Veterans.

#### **Disagreement #4**

I want to identify a specific problem with Beneficiary Travel in the Philippines. I have previously identified this issue to OSC and the VA and substantial positive progress has been made, but much more is required. However, the strategic issue is not beneficiary travel it is with the VA's own agreement with my recommendation that additional policies need to be developed for the Philippines VA. I am not trying to reargue my original Bene Travel complaint, just responding to the VA Secretary's own admission that Manila regulations need work. The VA

OIG recently (Feb 6, 2013) completed an investigation of the entire VA Beneficiary Travel Policy program. In that report "VHA was not aware until September 2011, when questioned by OIG, that two sites, Honolulu VA Medical Center (VAMC) and Manila VAMC, were not using the VistA Beneficiary Travel Package to process travel reimbursement claims. VHA deployed the VistA Beneficiary Travel Package in 2002 and required all beneficiary travel offices to use the package when processing travel mileage claims. Instead, both sites continued to maintain manual records of their transactions." This problem was fixed a few months ago. However, what this means is that no Bene Travel payments from the past 50 years are auditable. All travel claims are simply stored in boxes, with no filing process only by date and it is impossible to perform any sort of trend analysis or audit. I point this out, because at the time of my original complaint, VA officials claimed that "they audited the Bene travel program in Manila and there were no issues." This simply cannot be true, even the VA OIG has stated that the programs were not auditable....simply not possible, no systemic checks and balances were in place....not the case now. At best, a gross lack of candor occurred...possibly worse, when claiming that VA Manila's Bene Travel program had been successfully audited. However, this work leads to a different issue. Some in the VA say that VA Manila and the VA Secretary have no statutory authority to pay travel expenses in a Foreign Country. VHA HANDBOOK 1601B.05 is unclear on the policy, but seems it seems to imply that Bene Travel should **NOT** be authorized in foreign countries. When I have asked to see documented evidence if the VA Secretary has statutory authority to authorize Beneficiary Travel in the Philippines, I have either been stonewalled or otherwise not provided a responsive answer. So, I am asking the VA Secretary to formally either cease the payment of beneficiary travel in the Philippines, or if he has the discretionary authority to approve Bene travel, for the VA to please produce the document that provides evidence of that approval. This is not a small matter, VA Manila spends huge amounts on our Bene Travel program and since until recently the program has never been auditable and it will take some time to establish trends to even audit. My original allegations centered around "Program cannot be effectively managed under existing constraints. Veterans regularly car-pool, yet file individual travel vouchers...we can't ask to see their vehicle, because US Embassy security does not allow us to leave the Embassy to inspect vehicles. Even when fraud is detected, no effective process exists to take punitive action, because DOJ won't prosecute in the Philippines. Eliminating Bene Travel would save approximately \$1.5 million in travel costs and probably result in a reduction for at least 30% or more of the Manila OPC's volume. Veterans would still get a great deal, no other country in the world has a VA, so veterans would now simply have to make an business case on whether to use TRICARE, obtain other insurance, or to pay themselves to travel to Manila OPC at least once a year to remain validated and use the Manila OPC. If it requires \$500 to travel from Cebu to Manila OPC (as it usually does with an attendant) then a Vet will have to decide if he is better off using those funds on other insurance or simply paying for the care himself. Section 111 of Title 38, Payments or allowances for beneficiary travel is where The VA Secretary may have some discretion, but there is no evidence that discretion has ever been legally exercised.

The nexus between my bringing up Bene Travel now is however, not geared only on the Bene Travel Program. It is more geared towards the VA's introduction into this OSC case of VHA **DIRECTIVE 2012-019**, a document (attached) that did not exist in this form when I first filed my OSC complaint. In this directive it states:

“Within the limits of an outpatient clinic in the Republic of the Philippines that is under the direct jurisdiction of the Secretary [of Veterans Affairs], the Secretary may furnish a Veteran who has a service-connected disability with such medical services as the Secretary determines to be needed.”

For our Veterans this is an important matter. What the VHA directive is really saying is that if we have the resources available, we can provide treatment in VA Manila for non-Service connected conditions as well as our legally mandated service connected conditions. However, because VA Manila has been always chronically short of \$\$\$....mostly related to excessive costs associated with being forced to purchase non-FDA approved drugs at triple the PPV costs...we are often times short staffed or our appointments are chock full with service connected veterans so that we cannot provide treatment to as many non-service conditions as we would like. For some veterans this is literally a life & death situation and many of our Vets die because they are not able to obtain treatment for non-Service connected conditions...treatment that would be possible if we were not paying excessive amount of beneficiary travel that may not even be authorized by statute. The failure to provide treatment for non-service connected conditions is the number one issue that we face in terms of Congressional complaints in the Philippines....far in front of all other complaints. So...proper policies for the Philippines are not just something that “would be nice” they are critically required. I ask the VA Secretary to please either formally authorize Bene travel for the Philippines or to immediately direct its termination and allow VA Manila to use the \$\$\$ saved on more critical direct medical care issues for our Veterans.

Another related area we must deal with is the substandard hospitals we are often forced to send our Veterans to for Fee Basis care. This is a real problem with no readily available solutions, because neither the VA or the US Embassy can force the Philippines or any other country to build Medical facilities that meet USA standards, and as noted previously, a veteran makes that decision to knowingly accept less than USA standards of care when he moves to any foreign country....not just the Philippines. However, there is a better option. Previously the VA Manila use to refer to in policy to our approximately 25 Fee basis Hospitals as VA “approved or accredited.” After I complained about this matter to the VA Secretary in March 2012, VA Manila changed the terminology in SOP 136-17 Outpatient Fee-Basis Program (attached) to reflect VA “authorized” to disassociate the VA from any implications that we had actually done a formal accreditation visit with that Hospital and implied it met USA standards. Instead, what we now have is essentially a SOP that says “these Hospitals agree to grant credit to the VA for the patients we send to these Hospitals.” While some effort is made to ensure these Hospitals are safe places to send our Veterans, the reality is that the Philippines is a huge Country with multiple remote locations, and many of these remote locations have no hospitals and others that have hospitals the VA would not normally use if there

were better options available in the remote location. Unfortunately, many times, the hospital we Fee Basis our vets to, is the **ONLY** hospital in that area, so the choices are to either send the veteran to the “only” hospital or to send him to “no” hospital...a difficult situation to manage...and one where the VA does the best we can...but more proactive options may be available. This area is probably our number 2 congressional complaint. Our Veterans know that in Manila, there are two Hospitals that do meet acceptable standards of the US Embassy (St Luke’s and Makati Medical Center) and the US Embassy sends their American Citizen employees to these two Hospitals. The VA does not send our veterans to these Hospitals, under the guise that they are too expensive and we don’t have the budget \$\$\$\$. If we did not have to pay dubious Bene travel claims and with the savings we are about to achieve purchasing controlled drugs from McKesson....the VA could send our Veterans to the Hospitals they desire and our vets could obtain the quality care they deserve....all at very little cost to the VA...just some “policy” that reflects the realities of Manila....policy that the VA Secretary admits has been lacking for over 50 years.

### **Summary**

Although the VA has taken their normal path of punishing whistleblowers, not honoring them, remarkable progress has been made since I filed my original complaint with the VA Secretary in early March 2012. Safe FDA approved drugs are now being issued; the VA has accepted my suggestion to replace the SES Director in Manila with a VHA person not a VBA person. The majority of the serious issues I identified have been fixed, and as recently as April 8, 2013, (attached) the VA accepted my analysis that VA Manila is not funded been properly and now that we are saving almost \$750 thousand per year with the McKesson PPV, VISN 21 has agreed to provide us additional funding so we can take care of our Veterans properly. These are the successes and these are also the facts.

However, the Secretary’s conclusions is that there was no gross mismanagement, gross waste of funds, or substantial and specific danger to public health and safety...is simply not true and further investigation is required.

Additionally, there are other opportunities to improve Veterans care in the Philippines by terminating a fraud prevalent and difficult to manage and possibly not even authorized by law, Bene Travel program and applying the savings to sending our vets to US Embassy approved and accredited Hospitals...care our veterans have earned, and care that can be provided at little or no additional cost.

The VA has a tool readily available to make these additional improvements to our Veterans care in the Philippines. **GAO-12-20R, Oct 27, 2011**. This report encouraged "Congress may wish to consider extending authority for the Philippines office, but require VA to assess and report to Congress on the feasibility of maintaining a future presence in the Philippines." Not sure if Congress has encouraged VA to do a study, but VA should take the offensive (the term is “proactive”) and hire either LMI, RAND, BHA or any similar organizations to conduct a comprehensive study of VA Manila. Part of the study could look into the underlying causes of the issues I have identified. I

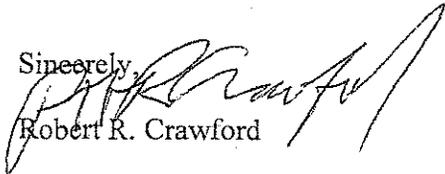
mention this, because the VA sometimes struggles to remember what they promised and I have seen no evidence that the VA has seriously done much more in terms of proactivity with VA Manila other than respond to my OSC complaints. Federal courts have long held the positions that Agencies run Agencies, not the Federal Courts or OSC...I am anxious to remove OSC from this equation and getting the VA back to running VA Manila, but until the VA establishes trust with Congress and Veterans, then unfortunately, the OSC is an option that must be used to ensure the VA does what they themselves say they should do in their own policies.

My most frustrating part of dealing with the VA during this OSC complains has be the FACT that the VA never spoke to me to get a clarification on my complaints or to discuss possible solutions. Instead they have chosen to simply operate in a vacuum and draft letters that claim an 'Investigation' of some type was completed, something I attribute to VA culture and the maddening tendency of the VA to eventually do the right thing....but only after trying everything else in-between....normally at the expense of their employees and our Veterans we serve. I thought about explaining the definition of "Investigation" to VA....but believes my point is effectively made. If I had to explain the lack of communication from 7 of the 10 people listed on page 5, of the Secretary's response, I would term it "active avoidance." Even though most of these people have traveled to and otherwise done business with VA Manila recently, they essentially avoided me. During a recent 5 day inspection, I was consulted with for less than 30 minutes and even that was a very "proforma" process. Frustrating....we are producing results, but we could do so much ore with at least some collaboration and proactivity on the part of VISN 21 and other senior VA officials. Not illegal...just poor way of doing business. Quality organizations recognize merit and deal with poor performers. The VA does not fit the definition of quality by many people's standards these days; in fact it is ranked by Federal Employees as the second worst place to work, trailing only the Department of Homeland Security. A bit of honest communication would probably have made 85% of my responses on this document unnecessary.

Thanks you for the opportunity to respond to this issue. Let's not give up until these issues are fixed....not hard, working together and not ignoring me...or treating me as a pest...we can fix things, we have made remarkable process in the past 12 months, let's not let the momentum stop!!

In closing, if the VA listens to only one thing I have pointed-out, please make that item be that this problem and responsibility rests with NAC and VA Central office and very little with VISN 21. The issues and problem are not with senior officials at VA Manila, so please don't send my responses to VA Manila for or VISM 21 for a solution, send them to NAC...NAC is where the problem is.

Sincerely,

  
Robert R. Crawford

Attachments

Documents Referenced

<http://www.gao.gov/products/GAO-12-20R>

<http://thephilippines.ph/lifestyle/fake-pharmaceutical-drugs/>

<http://veterans.house.gov/hearing/examining-vas-pharmaceutical-prime-vendor-contract>

[http://www.va.gov/vhapublications/ViewPublication.asp?pub\\_ID=2800](http://www.va.gov/vhapublications/ViewPublication.asp?pub_ID=2800)

<http://www.va.gov/oal/docs/business/nac/ppvContractVA797P-12-D-0001.pdf>

<http://www.gpo.gov/fdsys/pkg/CFR-2012-title21-vol9/pdf/CFR-2012-title21-vol9-sec1305-13.pdf>

<http://www.af.mil/shared/media/epubs/AFI41-209.pdf>

<http://www.va.gov/oig/pubs/VAOIG-11-00336-292.pdf>

[http://www1.va.gov/vhapublications/ViewPublication.asp?pub\\_ID=2275](http://www1.va.gov/vhapublications/ViewPublication.asp?pub_ID=2275)

[http://www.va.gov/vhapublications/ViewPublication.asp?pub\\_ID=2767](http://www.va.gov/vhapublications/ViewPublication.asp?pub_ID=2767)

OPC POLICY MEMORANDUM OUTPATIENT CLINIC, NO. 136-17/MCVC/GGO  
MANILA, PHILIPPINES, MARCH 2013

**Additional Funding Request for FY 2013 Budget**

## OUTPATIENT FEE-BASIS PROGRAM

### I. PURPOSE:

The purpose of this policy is to specify responsibilities and establish procedures for Outpatient Fee-Basis Program.

### II. POLICY:

It is the policy of the VA Outpatient Clinic, Manila to refer eligible veterans to approved fee-basis physicians and or health care facilities in their community or to the nearest accessible facility. Criteria for inclusion in the program are the veteran's service-connected disabilities, place of residence and cost-effectiveness of fee-basis care.

### III. RESPONSIBILITIES:

1. The **Chief Medical Officer** or his/her designee authorizes fee-basis referrals.
2. The **VA Primary Care Physician** reviews the veteran's case and approves/disapproves inclusion of the veteran into the program based on the selection criteria. He/she may suggest the appropriate fee-basis physician, when limited specialists are available or only one specialist provides the needed care. Otherwise, the physician will be initially chosen based on random rotation to the various authorized physician/clinics in close proximity to the veteran's residence.
2. The **Business Office Supervisor** ensures that fee basis program policy is implemented. He/she supervises the Patient Relations Assistants making sure that administrative orders from Primary Care Physicians are executed on a timely and precise manner based on eligibility standards. He/she also participates in the selection and credentialing of fee basis facilities and physicians based on the selection criteria.
3. The **Quality Assurance Team** selects fee-basis medical facilities and physicians based on the selection criteria. They communicate with potential fee basis facilities and physicians the mechanics of the program before they are credentialed and privileged. Prepares agreements specifying services contracted, fee schedules, turn-around-time for submission of reports like results of procedures/tests, medical

reports, other vital information and payment to the fee basis facilities and physicians.

4. The **Utilization Review (UR) Nurse** or his/her designee authorizes and signs Letter of Authorizaiton for Admission (VAF 7078 Authorization and Invoice for Medical and Hospital Services). He/she reviews admissions, monitors the treatment and management of all inpatient admissions at fee basis hospitals. Monitoring includes but not limited to follow-up of the patient's condition, course in the ward and plans for discharge. In cases where the authorized length of stay is extended or when the level of care increased, the UR Nurse assists with communication between the Attending Physician and the Primary Care Physician (PCP). The nurse tracks admissions and lengths of stays on a spreadsheet located on the W: drive (Morning reports, admissions).
5. The **Patient Relations Assistant** expedites inclusion of the veteran into the program by coordinating visit schedules, prepares, mail letter of authorization and other necessary documents Ensures documents are complete and accurate before sending to the veteran or fee basis facilities/ physicians.
6. The **Budget Assistant** ensures funds are sufficient for all outpatient treatment and inpatient services prior to payment.
7. The **Billing Coordinator/Clerk** processes bills within fourteen (14) days from date of receipt and responds to the Notice of Disagreements received in connection to a denied claim. The VA Appeals process will be followed.

#### **IV. PROCEDURES:**

##### **1. INCLUSION IN THE PROGRAM.**

- a. Veterans applying for medical care in the community will have their cases reviewed by their VA Primary Care Physician.
- b. Veterans who do not have an active file with OPC, but want to participate in the program should inform OPC by telephone or letter. Once eligibility is verified, they are assigned a Primary Care Physician and scheduled to report to the clinic for an initial assessment and evaluation.
- c. Fee-basis referrals are limited to physicians or facilities that have been authorized except in emergent situations and/or when no approved facility is reasonably available. In cases where there is no authorized facility or physician nearest to the veteran's community, he/she may be allowed to file a reimbursement claim for the medical services rendered.

- d. If the care provided by the fee-basis physician and/or facility is found to be unsatisfactory, the VA will discontinue the authorization and abolish the relationship with the physician and/ or facility.
- e. Veterans included in the program are scheduled for a follow-up visit with their Primary Care Physician within 12-18 months from his/her last OPC appointment. Exceptions to this are veterans who, by medical determination, can no longer travel to the OPC.

## **2. AUTHORIZATION FOR CARE.**

- a. When a decision is made to allow a veteran to receive community-based care, the VA will select and notify the fee-basis physician with a letter of authorization. This letter will contain the following information:
  - 1) The veteran's service-connected disabilities for which treatment is authorized.
  - 2) The number and frequency of visits authorized. Additional visits will not be paid unless Pre-authorized.
  - 3) The period of authorization.
  - 4) Professional fees and billing procedures are specified in the LOA.
- b. A Fee Basis Enrollment-Medical Abstract note or a Non VA Care Outpatient Consult order note, where the clinical findings are indicated, is sent to assist the fee-basis physician in developing the initial treatment plan. These notes are taken from the CPRS and attached to the letter of authorization. The medical abstract lists medications presently prescribed for treatment and ancillary services anticipated for continued management.

## **3. COMMUNICATION and DOCUMENTATION OF CARE.**

The fee-basis physician will keep the VA apprised of care provided by sending Outpatient Consultation Notes in the format provided. Fee-Basis physicians should send this completed note to the OPC by fax or mail within 5 days following a patient consult. The VA will provide self-addressed stamped envelopes. To facilitate the receipt of the report, veterans may secure a copy of the report/result/prescription and send to us either by registered mail or by fax. These completed consultation reports will serve as a tool for updating the VA on the status of the patient's medical condition, treatment plan, medications (refills and new), other ancillary tests (when necessary) and recommendations for future visits. This also facilitates communication between the VA and the fee-basis physician in cases

where there is a need to discuss the patient's medical management and or when hospitalization is required.

#### **4. HOSPITALIZATION.**

In the event that the veteran requires hospitalization, the fee-basis physician will contact the VA Outpatient Clinic prior to the admission. When an emergency admission is necessary, the patient, or relative, should inform the VA Outpatient Clinic within 72 hours. The fee-basis physician will likewise submit a medical report describing the need for the admission. Failure to communicate with the Outpatient Clinic within the specified time frame may result in the VA's refusal to authorize the admission and payment of the admission by VA until the veteran files an unauthorized claim at a later date.

Patients needing inpatient care are admitted to a semi-private room. If this kind of room is not available, patients may be admitted to the next available higher room rate for one (1) day. All efforts to transfer the patient in to a semi-private room shall be exerted. Patients can opt to use a room of their choice, however they have to pay the difference in cost of the authorized room rate. In cases where the patient is prone to infection because of his service connected condition/s or needing critical care, other types of accommodations can be pre-approved.

#### **5. MEDICATIONS.**

Medications prescribed by fee-basis physicians for the treatment and management of the veteran's service-connected disabilities should be limited to the VA Outpatient Clinic's Formulary. In cases where the medication-of-choice is not included in the Formulary and there is no appropriate substitute, the fee-basis physician should communicate with VA prior to prescribing the drug, as only formulary medications will be provided by VA. Fee-basis prescriptions will be sent to the VA Outpatient Clinic by the veteran as soon as possible. VA will fill the prescription and mail it to the veteran via mail/ courier service.

In situations where the veteran is required to take the medication right away, he/she may purchase 7 day supply of the medication from a local retailer. He /She may request reimbursement of payment for these medications upon approval of his primary care physician and submission of a completely accomplished VAF10-583 form and required documents (please refer to attachment F-1).

#### **6. SELECTION OF FEE-BASIS FACILITIES.**

Selection of fee-basis medical facilities will be evaluated on the following aspects:

- a. Structure
  - 1) Leadership
  - 2) Patient and staff safety

- 3) Patient care environment
  - (a) Physical plant
    - \*patient care areas
    - \*special care areas
  - (b) Equipment and supplies
    - \*diagnostic machines available
    - \*management of medical supplies
  - (c) Human resources
- b. Processes
  - 1) Nursing processes
  - 2) Medical processes
  - 3) Ancillary processes
- c. Outcome - review of mortality, readmission and infection rates. This criteria will be the basis for evaluating the standard of care and determining if this standard meets the definition of a "community standard of health care in the Philippines".

Evaluation will include a site visit by a team and interview with hospital management and selected staff. A written evaluation will be done and submitted to the Medical Executive Board, Chief Medical Officer and Clinic Manager.

## **7. COMMUNICATION WITH FEE-BASIS FACILITIES**

The VA will communicate matters pertaining to patient care and fee schedules with the appointed Coordinator or point of contact (POC) of the fee-basis facility, or with attending physicians. Written agreements may be established between the VA and the fee-basis facility. Agreements will specify services, fee schedules, turn-around-time for submission of documents, test results, patient records, and other vital information.

8. Guidelines for Authorizing Fee-Basis Care are outlined in attachment A.
9. Guidelines for authorizing in-patient care at fee-basis health care facilities are outlined in attachment E-3.

## **V. REFERENCES: M-1 Part I, Chapter 18.**

OPC Policy Memorandum 136-09 Admissions

OPC Policy Memorandum 00-26 Manila OPT Scanning Policy

## **VI. RESCISSIONS: OPC Policy memo No. 00-13, OPT Fee basis Program dated May 2009**

## **VII. REISSUE DATE: January 2017**

**VIII. FOLLOW-UP RESPONSIBILITY: Business Office Supervisor**

*Hardcopy signed*  
**NICK PAMPERIN**  
Acting Director  
Date: March 4, 2013

**Attachments:**

- A - Guidelines for Authorizing Fee-Basis Care
- B - Guidelines for the Outpatient Fee-Basis Program-
- C - Guidelines for In-patient Care at Health Care
- D - Fee-Basis OPT Form Preparation
- E - Fee-Basis Procedures:
  - E-1 Outpatient Consultation/Procedure
  - E-2 After Consultation
  - E-3 Admission
  - E-4 Continuation of Care
  - E-5 After a Diagnostic Examination
- F - Fee-Basis Reimbursement Procedures
  - F-1 Outpatient Prescriptions
  - F-2 Outpatient Consultation/ treatment/ diagnostic procedures
  - F-3 Hospital Admission

ATTACHMENT A

**GUIDELINES FOR AUTHORIZING FEE-BASIS CARE  
(For veterans enrolled under Fee Basis Program)**

1. The medical staff or Patient Relations Assistant (PRA) will document on the progress notes or report of contact the patient's willingness to participate in the OPT Fee-Basis Program.
2. The Primary Care Physician initiates a Fee Basis Enrollment Note and a Fee Basis Enrollment – Medical Abstract Note on the CPRS. The Acceptance Form will indicate the name and specialty of the Fee-Basis physician, initial visit schedule, validity period of the authorization and frequency of and interval time in between visits. The Medical Abstract will provide the fee-basis physician a list of the patient's service-connected disabilities, a brief history of the patient's present illness, his current medications and copies of his latest diagnostic examinations, if available.
3. The Primary Care Physician sends an alert to the PRA for preparation and mailing of the following documents:
  - a. 7079 Letter of Authorization (Request for Outpatient Services)
  - b. Letter to fee-basis MD ( signed by the Chief Medical Officer or his/her designee).  
The letter should specify mutually agreed professional fees for services rendered.
  - c. Letter to the patient (signed by PRA).
  - d. Fee Basis Enrollment – Medical Abstract Note from CPRS
  - e. Guidelines given to fee-basis physicians specifying mechanics of the program (attachment B).
  - f. VA Formulary list
  - g. Provider Sheet/SF 513 Outpatient Form (duplicate copies are given to the fee-basis MD depending on the number of authorized visits).
  - h. Self-addressed stamped envelope (number of envelopes are given to the fee-basis MD depending on the number of authorized visits).
4. PRA includes new enrollees into the list of patients included on the program.
5. Accomplished outpatient forms or progress notes received from fee-basis providers or veterans after each consultation are scanned through the Vista Imaging Capture program on the CPRS. The primary care physician reviews the scanned report and makes decision on the recommendations given by the Fee basis provider.

**GUIDELINES FOR THE OUTPATIENT FEE-BASIS PROGRAM**  
(given to fee-basis physicians)

**PURPOSE:** The purpose of these guidelines is to establish procedures for the implementation of an Outpatient Fee-Basis Program.

**OBJECTIVE:** It is the goal of the VA Outpatient Clinic, Manila to refer eligible veterans to accredited fee-basis physicians or health care facilities in their community for treatment and management of their service-connected disabilities.

**PROCEDURES:**

**1. INCLUSION IN TO THE PROGRAM.**

Veterans wishing to receive medical care in their local community will have their cases reviewed by their VA Primary Care Physician. If approved for participation in the program, the Primary Care Physician will refer the veteran to a physician in the local community or in a location accessible to his residence, using as the selecting criteria, the veteran's service-connected disabilities, place of residence and cost effectiveness of fee-basis care. Veterans living outside Metro Manila are generally considered.

**2. AUTHORIZATION FOR CARE.**

- a. When a decision has been made to allow veterans to receive community-based care, the VA will select and notify the fee-basis physician with a letter of authorization. This letter will contain the following information:
  - 1) The veteran's service-connected disabilities for which treatment is authorized.
  - 2) The number and frequency of visits authorized. Additional visits will not be paid for unless authorized.
  - 3) The period of authorization.
  - 4) The medications being prescribed for treatment of the patient's service-connected disabilities.
  - 5) Ancillary services anticipated for managing the patient's care.
  - 6) Professional fees and billing procedures are specified in the LOA.
- b. A FB Enrollment-Medical Abstract note or a Non VA Care Outpatient Consult order note, where the clinical findings are indicated, will also be sent to assist the fee basis physician in developing the initial treatment plan.

**3. COMMUNICATION AND DOCUMENTATION OF CARE.**

The fee-basis physician will keep the VA apprised of care provided by sending progress notes (consultation sheet) in a timely manner. The VA will provide self-addressed stamped envelopes. The "progress notes" will serve as a tool for updating the VA on the status of the patient's medical condition, treatment plan, medications (refills and new), other ancillary tests (when necessary) and recommendations for future visits. This also facilitates communication between the VA and the fee-basis physician in cases where there is a need to discuss the patient's medical management and/or when hospitalization is required.

**4. HOSPITALIZATION.**

In the event that the patient requires hospitalization, the fee-basis physician is to contact the VA Outpatient Clinic prior to the admission. When an emergency admission is necessary, the patient, or relative, should inform the VA Outpatient Clinic within 72 hours upon confinement. The fee-basis physician will likewise submit a medical report describing the need for the admission. Failure to communicate with the Outpatient Clinic within the specified time frame may result in the VA's refusal to authorize the hospitalization.

**5. MEDICATIONS.**

Unless otherwise authorized, medications prescribed by fee-basis physicians for the treatment and management of the patient's service-connected disabilities should be limited to the VA Outpatient Clinic's Formulary (copy provided). In cases where the medication-of-choice is not included in the Formulary and there is no appropriate substitute, the fee-basis physician should communicate with the VA prior to prescribing the drug. Fee-basis prescriptions will be sent to the VA Outpatient Clinic by the patient as soon as possible. VA will fill the prescription and mail it to the patient via mail/courier service

**GUIDELINES FOR IN-PATIENT CARE AT HEALTH CARE FACILITIES**  
(given to the Fee Facility Coordinator)

**OBJECTIVE:** It is the goal of the VA Outpatient Clinic, Manila to refer eligible veterans to health care facilities in their community for treatment and management of their service-connected disabilities.

**PROCEDURES:**

1. Veterans needing in-patient care for their service-connected disabilities will be referred by the OPC to an authorized health care facility in their community. A Coordinator is appointed for each health care facility. The Coordinator will act as a liaison between the health care facility, fee-basis physician and the VA OPC. He/she has the following responsibilities:
  - a. Attends to veterans needing in-patient care and or facilitates referral of veterans to specialists for care when necessary.
  - b. Ensures that the authorized length of hospital stay is observed and requests for an extension of hospital stay when necessary.
  - c. Ensures that a clinical summary is accomplished for each in-patient episode.
  - d. Ensures medications prescribed for take home medications are limited to the VA OPC Formulary. Communicates with the OPC if the medication-of-choice is not included in the Formulary.
  - e. Updates the OPC on the status of veterans admitted for in-patient care.
  - f. Notifies the OPC within 72 hours upon emergency admission and fills up the "Medical Abstract on Admission" form to document the condition of the veteran. This form is faxed to the OPC with 72 hours upon confinement.

2. When a decision has been made to admit the veteran, the OPC will notify the Coordinator with:
  - a. a letter of authorization (Authorization and Invoice for Medical and Hospital Services form 10-7078). This letter will contain the following information:
    - 1) The veteran's service-connected disabilities for which treatment is authorized.
    - 2) Authorized length of stay.
    - 3) Room and board rate .
  - b. Medical Certificate (VA Form 10-10M) which contains information on the patient's current condition including medications, diagnostic procedures performed and results if available, and recommendation for continued care. (This is applicable for stat admissions- admissions from OPC.)
3. In cases where the authorized length of stay is not sufficient to treat and manage the veteran's condition, the Coordinator requests an extension of hospital stay from the OPC 2 days before the validity of the LOA expires.
4. A clinical summary is accomplished after each in-patient episode and:
  - a. mailed or faxed to the OPC upon the veteran's discharge; or
  - b. hand carried by the veteran to the OPC after discharge (for Metro Manila admissions).
5. Unless otherwise authorized, medications prescribed for take home medications, should be limited to the VA OPC Formulary. In cases where the medication-of-choice is not included in the Formulary and there is no appropriate substitute, the Coordinator should communicate with the OPC prior to prescribing the drug and to the veteran's discharge.
6. Veterans admitted at facilities will be provided with a 7-day supply of medications by the health care facility pharmacy. Payment for these medications will be included in the statement of account for the entire in-patient episode. The VA Physician, upon review of the clinical summary, will determine need for additional supply of medications. The OPC fills these prescriptions and mails it to the patient via registered mail/courier service.

In the event that the veteran requires an emergency admission, the Coordinator informs the OPC within 72 hours upon admission. The PCP determines if the condition for which the veteran was admitted is service-connected and was indeed an emergent condition through the medical report submitted by the Coordinator. For approved admission, a letter of authorization (VAF 7078 Authorization and Invoice for Medical and Hospital Services) will be issued to cover the hospitalization (please refer to Attachment E-3 emergency admission procedure). In case the confinement was not authorized, the UR Nurse or his/her designee calls the veteran or his/her relative to inform them about the non-coverage of the admission while the PRA contacts the Coordinator and the Billing/Credit and Collection Dept of the facility regarding it.

• **FEE-BASIS OPT FORM PREPARATION**

**FEE-BASIS PHYSICIAN**

- Original 7079 Letter of Authorization (Request for Outpatient Services)
- SF 513 Outpatient Form (1 SF513 per visit)
- Copies Non VA Care Outpatient Consult order note, where the clinical findings are indicated, lab tests, x-rays, medical history and other pertinent records requested by PCP to be sent to the FB MD, self-addressed stamped envelope (1 envelope per visit).
- VA Formulary list
- Fee-Basis Guidelines - provided to first time fee-basis physician (attachment B)
- Additional documents given to FB Physicians for those veterans enrolled under Fee Basis Program:
  1. original Fee Basis OPT letter to the physician (signed by the Chief Medical Officer or his/her designee)
  2. copy of the FB Enrollment-Medical Abstract note from CPRS

**VETERAN**

- photocopy of 7079 Letter of Authorization (Request for Outpatient Services) VAF 3542 "Authorization for Mileage"\*
- VAF 23-3 "Itinerary Form"\* Authorization for Attendant Form (indicated at CPRS by PCP if vet is with or without attendant)\*
- Note: The forms with asterisk " \* " are given to vet for travel reimbursement. Each visit is given one of each forms.
- original Fee-Basis OPT Letter to the veteran (signed by the PRA) – given to veterans enrolled under the Fee Basis Program

**PRA**

- photocopy of 7079 authorization
- photocopy of Fee-Basis OPT Letter to the physician
- photocopy of Fee-Basis OPT Letter to the veteran

**FB FACILITY (For Diagnostic Procedures)**

- original 7079 authorization
- self-addressed stamped envelope (1 envelope per visit)

## REMINDERS

- In 7079 LOA, total the amount of all prescribed visits must be indicated
- In fee-basis letter to vet, state the total number of visits allowed, physician's clinic location and schedule (time and days), room number, professional fee, contact number and contact person.
- FB outpatient treatment package must be sent thru courier service or mail.
- An advance copy of the following documents may be faxed to FB facility or FBMD clinic during emergency cases:
  1. 7079 authorization
  2. FB Enrollment-Medical Abstract note from CPRS
  3. copies of Non VA Care Outpatient Consult order note, where the clinical findings are indicated, lab tests, x-rays, medical history and other pertinent records as per approval by PCP Fee-Basis OPT letter to the physician
  4. Fee-Basis OPT letter to the veteran
  5. SF 513 Outpatient Form
  6. 3542 "Authorization for Mileage" VAF 23-3 Itinerary Form and Authorization for Attendant Form (indicated at CPRS by PCP )
- Document the actions done on the CPRS by making an addendum note on the Non VA Care Outpatient Consult order note created for the outpatient service to be rendered.
- Update the FBMD and Vet Address Record
- Prioritize enrollment and renewals based on who would be reporting soon to FBMD and not according to which case was received first.

### • FEE-BASIS IN-PATIENT FORM PREPARATION

#### FEE BASIS FACILITY/ ATTENDING PHYSICIAN

- Letter of Authorization for Admission (VAF form 7078 Authorization and Invoice for Medical and Hospital Services)
- Cover Letter signed by the PRA
- Medical Abstract on Admission Form
- Continued Hospital Stay Request Form
- Hospital Discharge Summary Form
- Agreement for NSC conditions during confinement

#### VETERAN

- Letter of Authorization for Admission admission (VAF form 7078 Authorization and Invoice for Medical and Hospital Services)
- Cover Letter signed by the PRA
- VAF 3542 Authorization for Mileage, Itinerary Form and Authorization for Attendant Forms (for travel reimbursement)
- Other pertinent records or documents

- Note: These documents can be mailed or faxed to the facility/attending physician or veteran depending on the nature of admission.

## ATTACHMENTE-1

### FEE-BASIS OUTPATIENT CONSULTATION/ PROCEDURE

STEP 1 PCP initiates order for Fee Basis (FB) outpatient consultation/treatment or enrollment to FB program. He/she creates a Non VA Care Outpatient consult order on the CPRS specifying the "urgency" of the service recommended whether routine or stat. For veterans to be enrolled in the FB program, PCP will complete a Fee Basis Enrollment Note and a Fee Basis Enrollment – Medical Abstract Note on the CPRS.

STEP 2 If the Fee Basis Provider or tests/procedures specified by PCP are available, PRA prepares the following forms/ attachments :

- 7079 letter of authorization (Request for Outpatient Services) which identifies the service connected conditions as well as the medical information concerning the need for the doctor's appointment or diagnostic tests/procedures and the following information:
  - for outpatient consultation : FB Provider's name, clinic address, clinic schedule, contact number, and professional fee
  - for tests/ procedures: facility's name, department or section where the procedure will be done, section operating hours, point of contact, if there's any and estimated cost.
- copies of Non VA Care Outpatient Consult order note, where the clinical findings are indicated, lab tests, x-rays, medical history and other pertinent records as per approval by PCP
- SF 513 "Consultation Sheet" Outpatient Form
- VA Formulary List
- self stamped envelope
- Fee-Basis Guidelines - provided to first time fee-basis physician (attachment B)
- Travel Reimbursement Forms (VAF 3542 Authorization for Mileage, VAF 23-3 Itinerary Form, Authorization for Attendant Form (indicated at CPRS by PCP if vet is with or without an attendant)

Additional forms/attachments issued to those veterans who are enrolled in the Fee Basis Program:

- FB Enrollment-Medical Abstract note from CPRS
- Fee-Basis OPT letter to the physician
- Fee-Basis OPT letter to the veteran

Note:

- If there is no authorized facility in the locality of the veteran, an approval is sought from the Clinic Manager or his/her designee for the outpatient service to be done under reimbursement basis. Approval is based on availability of the service and economics - cost effectiveness. A reimbursement letter is prepared by the PRA and sent to the veteran once approved.
- The timeliness standard set by the Clinic should be followed when processing fee basis referrals.

STEP 3 PRA enters notes on the CPRS by making an addendum on the Non VA Care Outpatient Consult order note created for the particular outpatient service. The following information are made

- Type of Consult (specialty is specified)/Procedure
- Name of Facility
- Name of FB MD
- Validity period of the LOA
- Remarks – date mailed, mode of mailing and special instructions to vet are stated here.

STEP 4 PRA mails FB package as soon as the LOAs are signed and proper and accurate attachments are made. Mailing of the LOAs together with the attachments should be done a day after the LOAs has been returned to the PRA after these were signed by the Chief Medical Officer or his/her designee.

**FEE-BASIS PROCEDURE (AFTER CONSULTATION)**

- STEP 1 Mail Clerk receives medical report from FBMD Provider and routes it to the File Clerk for scanning. The medical report should be received by the OPC five days after a visit.
- STEP 2 PCP reviews the scanned report and the following steps are taken:
- PCP reviews each recommendation and Rx to determine if it is: SC or NSC; formulary or non-formulary and if the RX has refills or none.
  - PCP documents on CPRS and the action on the FBMD's recommendations and Rx. For approved recommendations, PCP creates a Non VA Care Outpatient Consult order. For Rx, PCP alerts the team Pharmacist for dispensing and mailing of the medications. If medicines prescribed have no refills, PCP will instruct the Pharmacist to communicate with FB MD for the appropriate substitute for the medicines.
- STEP 3 PRA carries out administrative orders by preparing the FB package (LOA and necessary attachments/forms/documents. He/she subsequently documents the action taken in the CPRS (please refer to STEP 3 of Fee Basis Outpatient Consultation/ Procedure.
- STEP 4 If the PCP disapproves the FB Provider's recommendations or if prescribed medicines are not available:
- Pharmacy talks to FB Provider to determine most appropriate substitute for the Rx.
  - Pharmacy dispenses Rx as prescribed by the PCP.
  - PRA informs vet in writing or by phone that the recommendations made by the FB Provider will not be authorized and documents conversation on CPRS.
- STEP 5 Mail Clerk receives by date stamping and forwards vet's travel claims (if any) to Travel Clerk. (Please refer to OPC Bene Travel Policy.

ATTACHMENT E-3

**FEE-BASIS PROCEDURE (ADMISSION)**

**ROUTINE/REGULAR/SCHEDULED ADMISSION** (recommendation for admission comes from the FB MD after patient's authorized consultation)

STEP 1 PRA receives medical report from FB MD and scans to patient chart and alerts the PCP. PCP determines if the admission is necessary; if admission is service connected and length of stay.

STEP 2 If recommended admission is approved:

- PCP initiates Non VA Care Inpatient Consult order.
- PRA coordinates with FB MD and vet the desired date of admission. Estimated cost of admission including professional fee/s is also inquired and negotiated from FB MD for budget allocation.
- PRA informs the Budget Assistant on the amount needed for the confinement.
- PRA prepares LOA for admission (VAF form 7078 Authorization and Invoice for Medical and Hospital Services) and other necessary documents (please refer to attachment Inpatient Form preparations) and routes it to UR Nurse or designee for approval and signature. If the "from date" in validity period is not the actual date of confinement, a note is written on the body of the LOA indicating when the actual date of admission will start. The authorized number of days of hospitalization is also stated.
- PRA sends (via mail/courier service) or fax the FB admission package to the facility/ attending physician or veteran depending on the admission date.
- PRA forwards a copy of the LOA to the Budget Assistant for budget allocation and recording.
- PRA documents the action done on the Non VA Care Inpatient Consult order created for the episode of admission. The following information are entered:
  1. Admitting Diagnosis
  2. Admitting Facility
  3. Date of Admission
  4. Attending Physician
  5. Validity period
  6. Remarks – date when the package was sent and mode of mailing, special instructions given to vet if there's any

STEP 3 If PCP disapproves the admission, PRA informs the vet and FB MD by phone and documents the conversation on the CPRS through Report of Contact notes. Questions on the authorization or decision made by the PCP may be directed to the UR nurse or his/her designee.

**STAT ADMISSION** (recommendation for admission comes from PCP after patient's OPT appointment)

- STEP 1 The Primary Care Physician recommends admission, after eligibility for the care is verified by the PRA. PCP prepares a Medical Certificate (VAF 10-10M form) where the patient's condition, and reason for admission and length of stay is documented and places an order on the CPRS through the Non VA Care Inpatient Consult note.
- STEP 2 PRA carries out the order. The admission is coordinated by the PRA with the FB Facility and attending physician; and contracts ambulance service, if necessary. Once coordinated, PRA prepares the FB package and routes it to the UR Nurse or designee for signature.
- STEP 3 PRA provides and explains the FB admission package to the veteran or his/her relative. The Medical Certificate (VAF 10-10M) is included in the package to be given to the attending FB MD.
- STEP 4 PRA forwards a copy of the LOA to the Budget Assistant for budget allocation.
- STEP 5 PRA documents the action done on the Non VA Care Inpatient Consult order created for the episode of admission. The following information are entered:
- Admitting Diagnosis
  - Admitting Facility
  - Date of Admission
  - Attending Physician
  - Validity period
  - Remarks – date when the package was given to vet, special  
Instructions given to vet if there's any

## EMERGENCY ADMISSION (Please refer to OPC Memorandum for Admissions)

STEP 1 PRA receives Medical Abstract on Admission report (or any medical report) where the patient's physical examination, chief complaints, admitting diagnosis and recommendation for inpatient care is documented by the hospital's attending physician. A notification about the admission must be reported to the OPC by the veteran or veteran's relative or the Admitting Section, Billing/ Credit and Collection Dept. or the attending physician.

STEP 2 The medical report is scanned by the PRA through the VISTA Imaging Capture Program on the CPRS. PCP is informed/alerted about the scanned report. He/she determines if the admission is necessary; if service connected and emergent and length of stay.

STEP 3 Once admission is authorized, PRA prepares LOA for admission (VAF form 7078 Authorization and Invoice for Medical and Hospital Services) and other necessary Documents (please refer to attachment Inpatient Form preparations) and routes it to UR Nurse or designee for approval and signature.

STEP 4 PRA sends or fax the FB admission package to the facility's Billing or Credit/Collection Dept. Informs the facility and the veteran or veteran's relative about the coverage and policy for admission including the validity period of the LOA.

STEP 5 PRA forwards a copy of the LOA to the Budget Assistant for budget allocation.

STEP 6 PRA documents the action done on the Non VA Care Inpatient Consult order created for the episode of admission. The following information are entered:

- Admitting Diagnosis
- Admitting Facility
- Date of Admission
- Attending Physician
- Validity period
- Remarks – date when the package was sent and mode of mailing, special Instructions given to vet if there's any

STEP 7 If PCP disapproves the admission, PRA informs the veteran or veteran's relative and the facility's Billing or Credit and Collection Dept. by phone and documents the conversation on the CPRS through Report of Contact notes. Questions on the authorization or decision made by the PCP may be directed to the UR nurse or his/her designee.

For the 3 types of admission, the UR Nurse or his/her designee conducts utilization review for each episode of inpatient care. He/she follows up on the general condition of the patient, present management, course in the ward, plans for discharge and home care. He/she coordinates the patient care with the attending physician and reports it to the PCP.

In cases where the initial length of stay is inadequate to carry out the plan of care, Continued Hospital Stay Request Form is requested by the UR Nurse or his/her designee to the attending physician/Fee Basis MD at least two days prior to the end of the authorization. Once this form is received, it scanned by the PRA for review and approval/disapproval of the patient's PCP. Adjustments on the "to" date of the validity period of the LOA and estimated cost are made if the extension is authorized. Attending MD and the veteran or his/her relative will be notified by the UR Nurse or his/her designee if the request for extension is not approved by the PCP.

Note: The Utilization Review Nurse (UR Nurse) is added as a co-signer for ALL inpatient reports scanned.

**FEE-BASIS PROCEDURE (Continuation of FB care)**

Veteran had his/her annual OPT visit

STEP 1 PCP documents on CPRS recommendation to continue FB care. PCP creates a Non VA Care Outpatient Consult order.

STEP 2 PRA carries out administrative orders and documents action taken in the CPRS.

## ATTACHMENT E-5

### **FEE-BASIS PROCEDURE (after undergoing a diagnostic examination)**

Results of diagnostic test/s is received from the FB facility (report is received 5 days after the test is done).

- STEP 1 Mail Clerk receives the results and routes them to the File Clerk for scanning.
- STEP 2 PCP reviews the results and documents recommendations on CPRS. He/she alerts the PRA for additional orders.
- STEP 3 PRA informs vet of PCP's recommendations and documents conversation in CPRS. Certain test results may require the team nurse a RN to explain the results/discuss with the patient.
- STEP 4 PRA carries out administrative orders, provides FBMD with a copy of the results and documents action taken on the CPRS. Preferred date is considered to avoid re-issuance of LOA.

**FEE-BASIS REIMBURSEMENT PROCEDURES (outpatient prescriptions)**

Bills Clerk receives a complete invoice for a prescription. A complete invoice includes: Rx written on a prescription pad with letterhead; official receipt from local retailer (original or authenticated) and medical report.

- STEP 1 Bills Clerk attaches the claim evaluation sheet to the invoice and routes it to PCP and team Pharmacist for disposition..
- STEP 2 Appropriate determinations are made based on the criteria for reimbursement.
- STEP 3 Pharmacy indicates in the Official Receipt whether prescribed medicines are formulary or not, FDA approved and if it is a valid claim (prior approval was given by the Pharmacist) then returns the documents to the Bills Clerk.
- STEP 4 If the claim met the criteria for reimbursement, Bills Clerk will process claim for payment. Otherwise, Bills Clerk informs the veteran of the disapproval in writing through a denial letter signed by the Clinic Manager or designee.

**FEE-BASIS REIMBURSEMENT PROCEDURES**  
**(consultations, treatments and diagnostic procedures)**

The consult, treatment and or procedure were approved by the PCP prior to the service (with LOA for reimbursement) and the service was conducted in a non-accredited facility or by a non-accredited provider.

- STEP 1 Bills Clerk/Mail Clerk receives complete invoice: consultation/ treatment report with provider's professional fee written on a pad with appropriate letterhead/ result of the diagnostic test with official receipt (original or authenticated) If the documents were received by the Mail Clerk, these are routed the documents to the Bills Clerk.
- STEP 2 Bills Clerk forwards the documents together with the claim evaluation sheet for review. PCP returns the claim to the Bills Clerk once the claim evaluation sheet is completed for payment processing. The completed invoice will be processed for payment within timeliness standard set by the Clinic. from date received (Date received is the date document is received by the Clinic).

**FEE-BASIS REIMBURSEMENT PROCEDURES (583 claim)**

Preparation of 583 claims:

Claims for cost of services not previously authorized shall be made on VAF 10-583, Claim for Payment of Cost of Unauthorized Medical Services and will include the following:

1. The claimant will specify the amount claimed and furnish original bills, vouchers, invoices or receipts, reports or other documentary evidence establishing that such amount was paid;
2. The claimant will provide an explanation of the circumstances necessitating the use of community medical care, service or supplies instead of VA care, services or supplies and
3. The claimant will furnish other evidence or statements that are necessary and requested for adjudication of the claim.

STEP 1 The claimant submits an accomplished 583 form to the Clinic together with documentary evidence which includes statement of account with itemized list of charges (original copy), official receipts (original or authenticated copy) physician's bills written on stationary with letterhead, discharge summary. OPC staff stamps the date on the documents using the automatic dater machine and routes all documents to the Bills Clerk.

STEP 2 Bills Clerk reviews all documents to make sure that all requirements of a completed invoice are available and routes these together with the claim evaluation sheet and rating decision to PCP for determination. STEP 3 PCP reviews documents and answers the following questions:

1. Was the veteran treated in an emergency?
2. Was treatment rendered primarily and basically for his SC?
3. Were x-rays, laboratory tests, EKG and other tests medically indicated in the treatment of his SCD?
4. Was the entire period \_\_\_\_ days of confinement emergency? If not, how many days are considered emergent?
5. Were medications prescribed and hospital supplies used medically indicated in the treatment of his SCD?
6. Is the professional fee of \_\_\_\_ reasonable? If not, what is the suggested fee?

If the PCP agrees to numbers 1 & 2, the claim is approved. However, the amount of payment will be based on services necessary for treatment of the SCD in accordance with the prevailing community rate. The documents are returned to the Bills Clerk for payment processing. Reimbursement claims are processed within the timeliness standard set by the Clinic.

If PCP disapproves of the admission he/she routes the documents to the Bills Clerk.  
Bills Clerk informs veteran of the disapproval in writing through a denial letter signed  
by the Clinic Manager or designee.

Department of  
Veterans Affairs

Memorandum

Date: April 8, 2013  
From: Vicki Randall, Clinic Manager  
Subj: Additional funding request for FY 13 Budget Shortfall  
To: Resource Management Board

Due to a number of issues that are documented below, the Manila Outpatient Clinic will encounter a budget deficit and will require **\$565,000** to ensure continued operation thru September 30, 2013.

Statement of the Issue

1. The FY2013 budget was calculated using 42:1 dollar-peso rate. Since October 2012, the dollar-peso exchange rates have decreased from 42 to 40 thus creating a **\$333,770.00** deficit. Employee salaries represent 62% or \$ 210,000 of the shortfall with the remaining in all other control points.
2. Recently **\$10,182.00** was taken from the OPC general purpose fund to cover costs associated with a recent EEO investigation and that amount was not figured into the FY 13 budget.
3. The FY 13 budget was calculated to include an estimated Pharmacy savings of \$489,997 for the purchase of controlled drugs through the Pharmaceutical Prime Vendor (McKesson) predicting that the OPC would be utilizing the PPV starting in October 2012. Due to a number of problems, the process for utilizing the PPV has only just begun in earnest this month (April). In order to help cover the deficit in the pharmacy budget, the RMB approved moving the equipment funding of \$244,998.50 from FCP 343 to FCP 035 (Pharmacy). There are no additional funds that can be pulled from other control points. The budget was further impacted by the cost of Hepatitis C medications purchased for one patient at a cost of \$33,703.44. OPC is requesting an additional **\$105,000.00** to cover anticipated deficits in the pharmacy budget for the remainder of the year.
4. OPC has funded three high cost patients for a total of \$160,000.00 this fiscal year. There are no additional funds that can be pulled from other control points to fund unexpected high cost patients through September 30. OPC is requesting an additional **\$75,000.00** to cover any further costs in this area that will undoubtedly occur between now and the end of the fiscal year.
5. Due to the increase in C&P exams and the fact that all veterans get reimbursed for travel in conjunction with their C&P exam, the clinic is requesting **\$37,000.00** to:
  - a) Staff overtime to complete exams
  - b) Hiring of two new part-time C&P contract physicians starting May 1
  - c) Beneficiary travel costs due to the increase in exams.

Recommend:

Approval

Disapproval

*Vicki Randall*

Vicki Randall  
Clinic Manager

Recommend:

Approval

Disapproval

*Nick Pamperin*

Nick Pamperin  
Acting Director

COST FOR RECOMMENDED COURSE OF ACTION

\_\_\_\_\_  
Steve Baumann  
Deputy Network Director

\_\_\_\_\_  
Date

EGB Recommendation

- Approve
- Approve as Modified
- Disapprove

Network Director's Decision

- Approved
- Disapproved

\_\_\_\_\_  
Sheila Cullen  
Network Director

\_\_\_\_\_  
Date