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▶▶▶ July 2013 ◀◀◀

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VA HEALTH CARE

Fact Sheet 16-13

February 2010

Veterans' Emergency Care Fairness Act

On February 1, 2010 the Veterans' Emergency Care Fairness Act (P.L. 111-137) was signed into public law. The Act amends 38 U.S.C. 1725 by changing the definition of personal liability. It removes the disqualifying factor of payment in part by a third party payer and removes one's own automobile reparations coverage from the definition of a health plan contract.

Effect

P.L. 111-137 does not change the requirement that a Veteran can have no entitlement to care and services under a health plan contract for VA to pay for non-VA emergency treatment. Although a person or entity obligated to provide, or to pay the expenses of, health services under a health-plan contract is included in the statutory definition of "third party," in order to be eligible for VA payment of non-VA emergency treatment a Veteran is not permitted to have coverage under a health plan, including Medicare, Medicaid, and Worker's Compensation 38 U.S.C. 1725(b)(3)(B).

P. L. 111-137 does change the requirement by establishing VA as a secondary payer for payment in part by a third party payer and for state mandated automobile reparations insurance, permitting VA reimbursement up to the VA allowable amount, for the remainder of reasonable charges owed when state mandated automobile reparations insurance makes partial payment on an eligible Veteran's behalf when the Veteran is personally liable for the costs of care and the Veteran does not have other health insurance coverage.

Retroactive Claims

Claims that possibly affected by this public law that were previously filed on or after July 19, 2001 may be reconsidered on a retroactive basis. When authorized, VA payment will be made in accordance with current regulation, 38 Code of Federal Regulations (CFR) 17.1005. The third party payment and VA payment, less any deductibles or co-payments, will fully extinguish the Veteran's liability to the provider.

Additional Information

For further information concerning this expanded benefit and instructions on how to file a claim or reopen a claim previously filed please contact your local VA Medical Center or call 1-877-222-8387(VETS).