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**Department of Veterans Affairs
Veterans Health Administration
Washington, DC 20420**

VHA DIRECTIVE 2010-054

December 9, 2010

**CATASTROPHICALLY DISABLED VETERAN EVALUATION, ENROLLMENT, AND
CERTAIN COPAYMENT-EXEMPTIONS**

1. PURPOSE: This Veterans Health Administration (VHA) Directive issues policy for the clinical evaluation, enrollment in Priority Group 4, and the discontinuation of inpatient, outpatient, and medication copayments of eligible Veterans who are catastrophically disabled.

2. BACKGROUND

a. Public Law 104-262, Section 104(a) of the “Veterans’ Health Care Eligibility Reform Act of 1996,” established a system of annual patient enrollment, in order of priority, for the provision of Department of Veterans Affairs (VA) hospital care or medical services (see Title 38 United States Code (U.S.C.) 1705. Under this system, VA must enroll in Priority Group 4, Veterans who are catastrophically disabled (see 38 U.S.C. §1705(4)).

b. This cohort of veterans was still, however, subject to copayment requirements applicable to their receipt of VA care. This requirement has changed with the enactment of Pub. L. 111-163 Section 511 of the “Caregivers and Veterans Omnibus Health Services Act of 2010,” which is codified in 38 U.S.C. 1730A. Section 511 prohibits VA from requiring Veterans who are catastrophically disabled from paying copayments for the receipt of hospital care or medical services as of May 5, 2010. VA’s General Counsel (GC) has held that this statutory provision extends to copayment requirements that would apply to the receipt of prescription drugs (see subpar. 5g). In a separate opinion, the GC held that Section 511 does not, by operation of law, prohibit the collection of copayments applicable to the receipt of nursing home care (see subpar. 5h). Therefore, veterans with catastrophic disabilities must still pay applicable copayments for the receipt of nursing home care.

***NOTE:** Examples of extended care include: nursing home care, domiciliary care, respite care, geriatric evaluation, and adult day health care. Although these Veterans are still subject to applicable copayments for the receipt of nursing home care, certain extended care services (essentially “noninstitutional alternatives to extended care”) fall within the definition of “medical services” for purposes of 38 U.S.C. Chapter 17. As a result, Veterans with catastrophic disabilities are exempt from copayments applicable to the receipt of noninstitutional respite care, noninstitutional geriatric evaluation, noninstitutional adult day health care, Homemaker/Home Health Aide, Purchased Skilled Home Care, Home-based Primary Care, and any other noninstitutional alternative extended care services.*

c. Veterans are considered to be catastrophically disabled if they have a permanent, severely disabling injury, disorder, or disease that compromises the ability to carry out the activities of daily living to such a degree that the individual requires:

- (1) Personal or mechanical assistance to leave the home, or bed; or

THIS VHA DIRECTIVE EXPIRES DECEMBER 31, 2015

- (2) Constant supervision to avoid physical harm to self or others.

NOTE: This is met if the individual's circumstances meet the terms of Title [38 Code of Federal Regulations \(CFR\) 17.36\(e\)](#) (see Att. A).

d. An evaluation to determine whether a Veteran is catastrophically disabled, as defined by the Secretary, may be initiated at the request of the Veteran, the Veteran's representative, or facility clinical staff. For all requests, facility staff must use and complete VA Form 10-0383, Catastrophically Disabled Veteran Evaluation & Approval (Fillable), which can be used for local reproduction. This form is available on the VA Forms Web site at <http://vaww.va.gov/vaforms/>. *NOTE: This is an internal VA Web site not available to the public.*

e. Veterans whose medical conditions involve permanent severely disabling injuries, described above, should be encouraged to seek or undergo the Catastrophic Disability Evaluation. *NOTE: To request a Catastrophically Disabled Veteran Evaluation, Veterans may call 1-877-222-VETS (8387) or the Enrollment Coordinator at their local VA medical facility.* Positive determinations will enable them to enroll in VA's health care system (particularly if they would otherwise be ineligible to enroll in VA's health care system due to an existing administrative enrollment restriction, e.g., certain Priority Group 8's). Currently enrolled veterans who are similarly clinically situated need to be encouraged to seek or receive the Catastrophic Disability Evaluation in order to elevate their enrollment status to Priority Group 4 and thus receive the benefits of enhanced enrollment, and more specifically, the copayment exemptions applicable to catastrophically disabled Veterans. As explained in VA's regulation, some evaluations may involve only a pertinent medical records review.

3. POLICY: It is VHA policy to provide, upon request, a Catastrophically Disabled Veteran Evaluation within 30 days. Veterans determined to be catastrophically disabled, are placed in priority group 4, unless qualified to be enrolled in a higher priority group, and are exempt from copayments for hospital care, outpatient medical care and medications prescribed on an outpatient basis.

4. ACTION

a. **Office of the Assistant Deputy Under Secretary for Health (10A5).** The Office of the Assistant Deputy Under Secretary for Health is responsible for collecting Catastrophically Disabled Veteran Evaluation data for reporting and analysis purposes. The data is to be posted quarterly at: http://vaww4.va.gov/VHAOPP/cdvet_eval.asp. *NOTE: This is an internal VA Web site not available to the public.* Using appropriate VA Form 10-0383, Veterans Health Information and Technology Architecture (Vista) entries, and the following data, which is to be collected; the:

- (1) Number of new catastrophically disabled evaluations completed, both by record review and clinical examination;

(2) Number of cumulative catastrophically disabled evaluations completed, both by record review and clinical examination; and

(3) Number of total estimated or potential catastrophically disabled evaluations.

b. **Medical Center Director.** Each Medical Center Director is responsible for ensuring:

(1) VA health care facility staff initiates Catastrophically Disabled Veteran Evaluations for known Veteran- groups whose conditions reasonably indicate potential eligibility for this enhanced enrollment status, such as Veterans participating in Spinal Cord Injury Programs, in Traumatic Brain Injury Programs, in blinded Veterans programs, etc.

(2) Appropriate staff involved in the Catastrophically Disabled Veteran Evaluation is properly trained and knowledgeable in the following process:

(a) Upon request, the facility Enrollment Coordinator, or designee, must initiate a VA Form 10-0383, for each Veteran requesting such evaluation or on whose behalf such a request is made.

(b) The Enrollment Coordinator, or designee, must obtain all relevant VA clinical records or non-VA medical records provided by the Veteran, or obtained for the Veteran by VA staff, and have them reviewed by the Veteran's clinician.

1. If sufficient documentation is available from the health records to determine the Veteran is catastrophically disabled, the clinician is to complete VA Form 10-0383, front and back, and make a recommendation as to whether the Veteran is or is not catastrophically disabled (as defined by 38 CFR 17.36(e)). The clinician forwards the complete package to the Chief of Staff, or equivalent clinical representative, for approval or disapproval of the recommendation.

2. If the medical record information is not available or sufficient to make a determination of catastrophic disability, the Enrollment Coordinator, or designee, must request a Catastrophic Disability Examination be performed consistent with the medical center policy on conducting Catastrophic Disability evaluations. Upon completion of the evaluation, the examining clinician must complete and return VA Form 10-0383 to the Enrollment Coordinator, or designee, who is responsible for forwarding the completed package to the Chief of Staff, or equivalent clinical representative, for approval or disapproval of the recommendation. The data is then forwarded to the Veterans Integrated Service Network (VISN) within the timeframes established by the VISN.

(c) If approved, written notification is sent to the Veteran or the Veteran's representative by the Chief of Staff's designee.

(d) If disapproved, written notification, including the Veteran's right to seek reconsideration and/or appeal the decision, are to be sent to the Veteran or the Veteran's representative. **NOTE:** See Attachments C through F for appropriate sample letter usage.

(3) All correspondence, including VA Form 10-0383 and any completed assessment tool, must be placed or scanned, into the Veteran's electronic health record.

(4) All appropriate clinical information, as well as data from VA Form 10-0383, is to be entered into VistA, and the Computerized Patient Record System (CPRS) (see Att. B).

5. REFERENCES

- a. Title 38 U.S.C. §1705.
- b. Title 38 U.S.C. §1705(4).
- c. Title 38 U.S.C. §1730A.
- d. Title 38 CFR §17.36(e).
- e. Pub. L. 104-262 Section 104(a).
- f. Pub. L. 111-163 Section 511.
- g. VAOPGCADV 4-2010.
- h. VAOPGCADV 8-2010.

6. FOLLOW-UP RESPONSIBILITY: The Chief Business Office (16) is responsible for the contents of this Directive. Questions may be directed to (202) 461-1589. **NOTE:** *For questions regarding the clinical evaluation, instruments criteria, or threshold information, contact the Office of Patient Care Services (11) at (202) 461-7590.*

7. RESCISSION: VHA Directive 2009-073 is rescinded. This VHA Directive expires December 31, 2015.

Robert A. Petzel, M.D.
Under Secretary for Health

Attachments

DISTRIBUTION: E-mailed to the VHA Publications Distribution List 12/10/2010

ATTACHMENT A

DEFINITION OF CATASTROPHICALLY DISABLED

1. Catastrophic disability (CD) is a permanent severely-disabling injury, disorder, or disease that compromises the ability to carry out the activities of daily living (ADL) to such a degree that the individual requires:

- a. Personal or mechanical assistance to leave home or bed, or
- b. Constant supervision to avoid physical harm to self or others.

2. A Veteran may meet the initial CD requirement by a:

- a. Clinical evaluation of the patient's health records that documents that the patient previously met the criteria set forth in paragraph 3 and continues to meet such criteria (permanently), or would continue to meet such criteria (permanently) without the continuation of on-going treatment; or

- b. Current medical examination that documents that the patient meets the criteria set forth in following paragraph 3 and will continue to meet them, or would continue to meet such criteria (permanently) without the continuation of on-going treatment.

3. This definition is met if an individual has been found, by the Chief of Staff (or equivalent clinical official) at the VA health care facility where the Veteran was examined, to have a permanent condition specified in following subparagraphs 3a, 3b, or 3c:

- a. One of the permanent diagnoses found on Web site: http://vaww4.va.gov/VHAOPP/cdvet_eval.asp (see "View CD Diagnoses"). *NOTE: This is an internal VA Web site not available to the public.*

OR

- b. A condition resulting from two of the International Classification of Diseases, 9th Edition, Clinical Modification (ICD-9-CM) procedure codes, or associated V codes when available, or Current Procedural Terminology (CPT) codes provided the two amputation procedures were not on the same limb. These codes can be found at the following Web site: http://vaww4.va.gov/VHAOPP/cdvet_eval.asp (see "View CD Diagnoses"). *NOTE: This is an internal VA Web site not available to the public.*

OR

- c. One of the following permanent conditions:

- (1) Dependent in three or more ADLs; (i.e., eating, dressing, bathing, toileting, transferring, incontinence of bowel or bladder) with at least three of the dependencies being permanent with a

score of 1, using the Katz scale. **NOTE:** *The Katz Index of ADL assigns a maximum of 18 points across all six ADLs. The most dependent rating on each ADL is a 1, and an intermediate functional limitation is a rating of 2, with independence rated as 3. To be catastrophically disabled, the Veteran must have a rating of 1 on a minimum of three permanent ADLs. For example, a Veteran dependent in all ADLs would have a total Katz score of 6. Similarly, a Veteran dependent in three ADLs and needing less assistance in three other ADLs would score 9.*

(2) A score of 10 or lower using the Folstein Mini-Mental State Examination (MMSE). **NOTE:** *The MMSE has a maximum assignment of 30 points across eleven measures. A score of less than 10 is consistent with severe cognitive impairment. To qualify for CD status, there must be documentation in addition to the MMSE score of 10 or lower, showing that the patient has a permanent cognitive impairment. To show that the impairment is permanent, the reversible causes of cognitive impairment need to be ruled out. A common example is a delirious patient who may score very poorly on the MMSE, but improve once the source of delirium is treated. It is also important for evaluators to remember that a low MMSE score, by itself, is not diagnostic (i.e., it is not specifically diagnostic of dementia), but it is an indication of cognitive impairment that warrants further evaluation.*

(3) A score of 2 or lower on at least four of the thirteen motor items using the Functional Independence Measure (FIM). **NOTE:** *The FIM contains 18 measures in six domains. The thirteen motor items are in four domains: self-care; sphincter control; transfers; and locomotion. The scores across all these domains range from needing a helper because of complete dependence (score of 1 for total assistance and a score of 2 for maximal assistance), with intermediate scores 3 through 5 for modified independence, to scores 6 or 7 when no helper is needed. To be CD, the Veteran must have a score of 2 or lower on at least four permanent conditions of the thirteen motor items using the FIM.*

(4) A score of 30 or lower using the Global Assessment of Functioning (GAF). **NOTE:** *The GAF is taken directly from the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM-IV), p. 32, except that VHA only includes scores from 1 to 100, excluding 0 (insufficient information).*

(a) GAF is a 100-point scale divided into ten defined levels, with higher scores indicating a higher overall level of functioning. For example, the description of the GAF level 21 to 30 is as follows: “Behavior is considerably influenced by delusions or hallucination or serious impairment in communication or judgment (e.g., sometimes incoherent, acts grossly inappropriately, suicidal preoccupation) or inability to function in almost all areas (e.g., stays in bed all day, no job, no home, or no friends).”

(b) GAF is to be used only to reflect psychological, social, and occupational functioning. Impairment in functioning due to physical illness or environmental limitation is not to be taken into consideration in using this scale. The scale rates both functioning and, particularly in the higher ratings, the severity of symptoms due to a mental disorder. Using GAF for documenting the CD may be only done in the context of a mental disorder considered to be of a permanent nature. For example, a patient with a serious suicidal attempt might well rate a score under 30,

but generally within a few days or weeks will return to a much higher level both symptomatically and functionally.

4. References

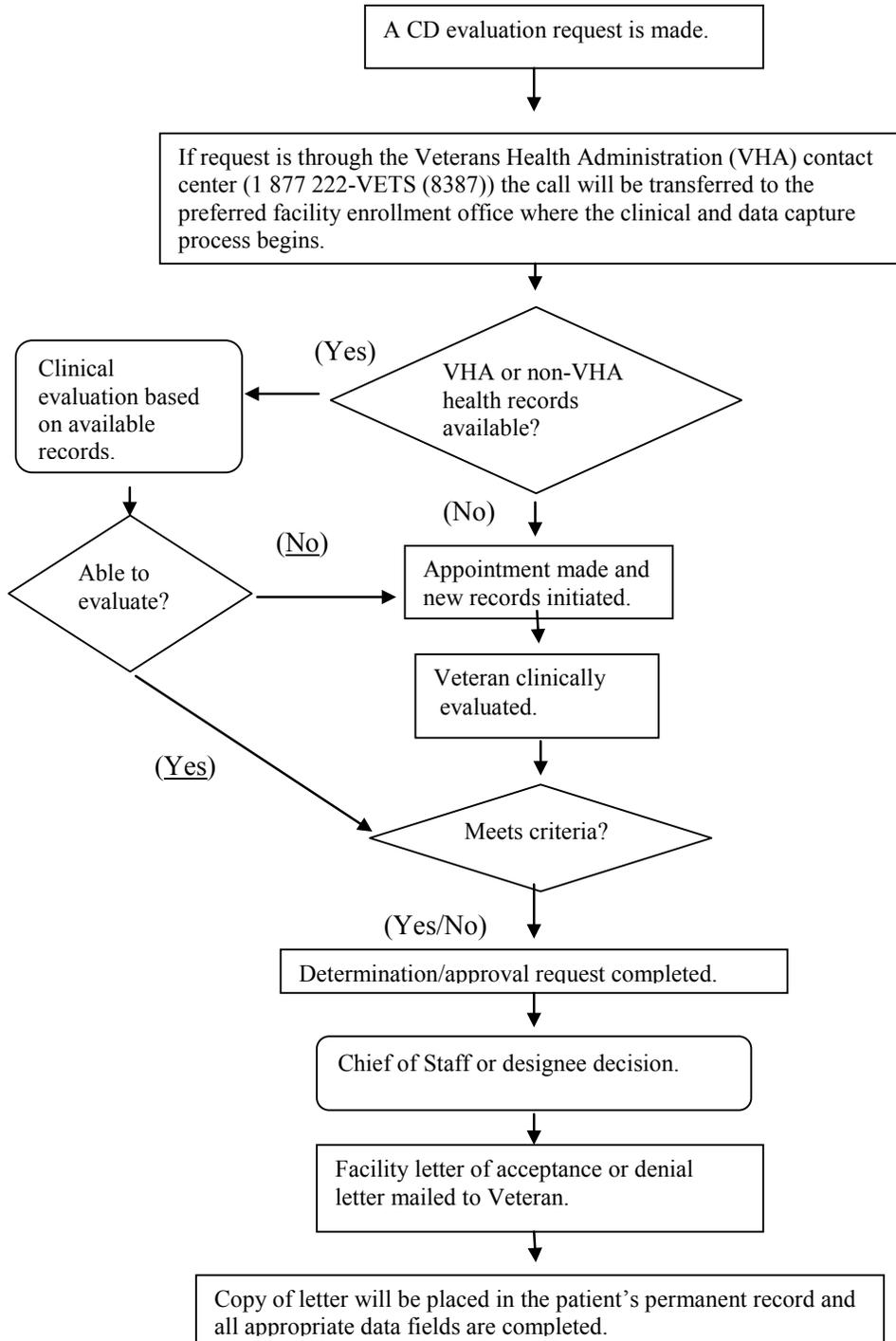
a. Katz S, Downs TD, Cash HR, et al. "Progress in the Development of the Index of ADL," The Gerontologist. Part I: 20; 1970.

b. Juva K., Sulkava R., Erkinjuntti T., et al. "Staging the Severity of Dementia: Comparison of Clinical (CDR, DSM III-R), Functional (ADL, IADL) and Cognitive (MMSE) Scales," Acta Neurologica Scandinavica. 90:293; 1994.

c. Folstein MF, Folstein S, McHugh PR. "Mini-mental State: A Practical Method for Grading the Cognitive State of Patients for the Clinician," Journal of Psychiatric Research. 12:189; 1975.

ATTACHMENT B

CATASTROPHICALLY DISABLED (CD) EVALUATION PROCESS
(30 CALENDAR DAYS)



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ATTACHMENT C

VETERAN REQUESTED CATASTROPHICALLY DISABLED (CD) EVALUATION

NOTE: If VA determines the Veteran is catastrophically disabled (CD), the VA health care facility Chief of Staff must send written notification of the determination to the Veteran. The following letter sample should be used for these notifications.

SAMPLE OF A WRITTEN NOTIFICATION FOR A VETERAN WHO IS DETERMINED TO BE CD

(Date)

(Name)

(Address)

(City, State, Zip Code)

Dear _____

At your request, the Department of Veterans Affairs (VA) has concluded its review of your medical condition and determined that your disability, injury, or condition meets the criteria of a catastrophic disability. As a result, you will be enrolled in, or moved to, Priority Group 4, unless you qualify for enrollment in a higher Priority Group. Official notification of your updated enrollment status will be sent by separate letter.

Veterans enrolled in Priority Group 4 are eligible for all needed services included in the Medical Benefits Package. Furthermore, Veterans deemed to be catastrophically disabled are not required to pay inpatient, outpatient, or prescription drug copayments that would otherwise apply. If you have any questions, feel free to call the enrollment office at _____ (phone number) (or the appropriate locally designated office) _____.

Sincerely,

VA Health Care Facility Chief of Staff (Signature)

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ATTACHMENT D**VETERAN REQUESTED CATASTROPHICALLY DISABLED (CD) EVALUATION**

NOTE: If it is determined that the Veteran does not have a catastrophic disability (CD), the (VA) health care facility Chief of Staff must send written notification of this determination to the Veteran. Such notification should be made using the following letter sample.

SAMPLE OF WRITTEN NOTIFICATION FOR A VETERAN WHOSE ENROLLMENT PRIORITY IS NOT CD

(Date)

(Name)

(Address)

(City, State, Zip Code)

Dear _____

You recently requested a health record review and a catastrophic disability examination to determine if you meet the criteria to be classified as a catastrophic disabled Veteran for Department of Veterans Affairs (VA) health care purposes.

Based on a full document review and/or examination conducted by the VA Medical Center located at _____, VA regrets to inform you that we have determined that your medical disability, injury, or condition does not qualify as a catastrophic disability (as that term is defined by law). I have personally reviewed the facility's findings and concur for the following reason(s):

(Insert rationale for determination. This letter must contain both the reasons for the decision and a summary of the evidence considered by VA).

If you disagree with this determination, you may appeal it. To do this, you may choose one or both of the following options.

a. You may seek reconsideration of this decision. Your written request for reconsideration needs to be addressed to the VA health care facility Director, at __ (name of facility) __. Your request for reconsideration must be postmarked or received within 1 year of the date of this letter; and/or

b. You may formally appeal the decision to the Veteran Integrated Service Network Director. A decision will be rendered within 30 days after receipt of the appeal request. However, that time frame may be extended to 45 days, should the VISN request an external clinical review.

If you have any questions, please feel free to call the enrollment office or your VA health care provider at _____ (phone number) _____ (or the appropriate locally designated office).

Sincerely,

VA Health Care Facility Chief of Staff (Signature)

Enclosure

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ATTACHMENT E

FACILITY INITIATED HEALTH RECORD REVIEW

SAMPLE OF WRITTEN NOTIFICATION FOR A VETERAN
WHOSE ENROLLMENT PRIORITY
CHANGES TO CATASTROPHICALLY DISABLED (CD)

***NOTE:** If it is determined that the Veteran has a catastrophic disability (CD), written notification of the outcome must be sent to the Veteran from the Department of Veterans Affairs (VA) health care facility Chief of Staff using the following letter sample.*

(Date)

(Name)

(Address)

(City, State, Zip Code)

Dear _____

Based on a recent review of your health records and examination, the Department of Veterans Affairs (VA) has determined that your disability, injury, or condition meets the criteria of a catastrophic disability. As a result, you will be immediately enrolled in Priority Group 4, unless you are eligible for enrollment in a higher Priority Group. Official notification of the change in your enrollment status will be sent by separate letter.

Veterans enrolled in Priority Group 4 are eligible for all needed services included in the Medical Benefits Package. Veterans who are determined to catastrophically disable are not required to pay inpatient, outpatient, or prescription drug copayments that would otherwise apply. If you have any questions, feel free to call the enrollment office at _____ (phone number) _____ (or the appropriate locally designated office).

Sincerely,

VA Health Care Facility Chief of Staff

(Signature)

ATTACHMENT F

FACILITY INITIATED HEALTH RECORD REVIEW

NOTE: *If the Catastrophic Disability (CD) determination for a Veteran who has an Enrollment Priority Group cannot be made based on a health record review, written notification of the outcome must be sent to the Veteran from the Department of Veterans Affairs (VA) health care facility Chief of Staff using the following letter sample. The letter encourages the Veteran to schedule an appointment for a CD examination in order to complete the CD evaluation process.*

**SAMPLE OF WRITTEN NOTIFICATION FOR A VETERAN WHEN A
CATASTROPHICALLY DISABLED (CD) DETERMINATION CANNOT BE MADE
BASED UPON A HEALTH RECORD REVIEW**

(Date (Address)
(City, State, Zip Code)

Dear _____

Our facility has recently completed a health record review to determine if your disability, injury, or condition meets the definition of a catastrophic disability. We did this to determine whether you qualify for enrollment or enhanced enrollment status in Priority Group 4 of the Department of Veterans Affairs (VA) health care enrollment system. A determination of catastrophic disability and enrollment in Priority Group 4, among other things, exempts a Veteran from copayment requirements that would otherwise apply to the Veteran's receipt of hospital care, outpatient care, and outpatient prescription drugs. _____ (Insert information regarding extended care services once available)_____. Based on the current information in your health record, we are not able to complete our determination.

If you feel that your condition may qualify as a catastrophic disability, we encourage you to contact our Enrollment Office for more information and to schedule an appointment for a "Catastrophic Disability Examination." The Enrollment Office can be reached at _____ (phone number)_____. This is important to ensure you are receiving all the health care benefits for which you are eligible.

Sincerely,

VA Health Care Facility Chief of Staff

(Signature)