

Medicaid Performance Work Statement (PWS)

A. Overview

1. Federal Acquisition Regulation (FAR) – Basic Ordering Agreements. In accordance with FAR 16.703, Basic Ordering Agreements, this is a Basic Ordering Agreement (BOA) with a Base Period and four (4) option years from the “Award Date” with one (1) 6-month extension to be exercised at the sole discretion of the Government. A binding agreement is formed, in accordance with the terms and conditions of this BOA, when the Department of Veterans Affairs (VA) agrees to place a patient in the Community Nursing Home (CNH) and the CNH agrees to accept the patient. Upon acceptance by the Contractor of beneficiaries of VA, all terms and clauses of this BOA shall apply during such time as a VA patient remains in that CNH at the expense of VA.

2. Services Rendered at VA Per Diem Rates. Upon acceptance of a VA patient by the CNH, if and when requested by the VA Contracting Officer or authorized representative, the Contractor shall furnish all supplies and services herein described, at the per diem rates for the “Levels of Care” specified in the Schedule of Items of this BOA. The VA “Levels of Care” are defined in Section D.1 of the solicitation and the BOA. VA is obligated only to the extent authorized placement of patients is made in accordance with this BOA.

B. Background

1. Introduction. The Community Nursing Home (CNH) program is a key component of the Veterans Health Administration (VHA) continuum of care. The Contractor agrees to provide in accordance with the terms and conditions stated herein to the U.S. Department of Veterans Affairs **Alexandria Health Care System, Pineville, Louisiana** at the prices specified in the section titled Schedule of Items of this BOA. Nursing home facilities in the CNH program shall cooperate with VA staff in referral of appropriate veterans for care and accept veterans of which they have the capability/capacity to care. The term, “facilities,” shall include but not be limited to rooms, wards, sections, eating areas, drinking fountains, entrances, and other like areas. VA shall have the right to inspect the CNH and all appurtenances by authorized VA representative(s) to ensure that acceptable standards are maintained and that the necessary care to maintain the well-being of the patient is rendered.

C. Requirements

1. General. Nursing home facilities in the CNH program shall ensure that care meets the health needs and promotes the maximum well-being of VA patients. Nursing home care will be furnished to ensure the total medical, nursing, and psychosocial needs of VA beneficiaries. All nursing home facilities in VA’s CNH program must have current Center for Medicare and Medicaid Services (CMS) certification (Medicare and/or Medicaid) and a State nursing home license. VA developed quality of care standards utilizing CMS inspection criteria that are followed by VA in its selection of nursing homes. See VHA Handbook 1143.2, “VHA Community Nursing Home Oversight Procedures (June 4, 2004) a copy of which is available at: <http://www.va.gov/vhapublications/publications.cfm?pub=2>. VA often has a

particular need for specialty care services in the CNH program. The VA requires CNHs to have bed capacity to ensure their ability to take referrals when requested. The CNH also must be able to accept VA referrals in a timely fashion (ideally within 24 hours of request). Provider visits will be available at the rate of one (1) visit per month. Laboratory, x-ray, and other special services will be available to VA patients as needed. In addition, the care provided will include room, meals, nursing care, primary medical care, and other services or supplies commensurate with the VA-authorized level of care, without extra charge. Duly authorized representatives of VA will provide quality oversight visits to veterans placed to assure continuity of care and to assist in the veterans' transition back into the community. These visits do not substitute nor relieve the CNH in any way of the responsibility for the daily care and medical treatment of the veteran. The per diem rate(s) established in this BOA will include the cost of primary medical care, one (1) provider visit per month and needed consultation, drugs and routine supplies, laboratory, x-ray, and other special services authorized by VA, unless otherwise specifically accepted (see Schedule of Items in this BOA for details regarding per diem rates and coverage). Full attention shall be given to motivating and educating patients to achieve and maintain independence in the activities of daily living. Every effort shall be made to keep patients ambulatory and to achieve an optimal level of self-care.

2. Termination of Services. VA reserves the right to remove any or all VA patients from the CNH at any time when it is determined to be in the best interest of VA or the patients without additional costs to the Government.

3. VA Authorizations. Authorization for nursing home care will be submitted on VA Form 10-7078, "Authorization and Invoice for Medical and Hospital Services." Each authorization validity period will be noted on the VA Form 10-7078 with a beginning and end date. Any extension to the original authorization validity period, regardless of the number of days, requires a new VA Form 10-7078.

4. Medicaid-Based Rates. The current State Medicaid rates may be used as a basis for determination of VA rates. The VA rate will include medical care, routine medications, laboratory, x-ray, therapy (ies), and other special services authorized by VA, unless otherwise specifically exempted. VA will contract for appropriate Medicaid categories of care using Resource Utilization Groups (RUG-IV) as a guide. As with Medicare, a description of the RUG-IV systems can be found in 42 CFR Parts 409, et al.

5. The CNH's Minimum Data Set (MDS) Assessment for Medicare. The CNH's Minimum Data Set (MDS) assessment will be completed on the same schedule as the current Medicare MDS-Scheduled assessments, including close of therapy (COT) assessments. Classification changes will be approved by VA, dependent on projection for short-term or long-term residence, and adhering to the most current MDS frequency guidelines from Medicare. The applicable per diem rate will continue until the next assessment. This request should be submitted on the Level of Care Authorization Form provided to the facility. VA will make the determination whether classification changes require readmission to VA. VA staff will audit approximately 20% of the MDS assessments.

The Level of Care classification and associated per diem rates will remain in effect for each placement until and unless one of the following events takes place:

- a. Re-hospitalization that may be associated with a change in level of care;

- b. Need for more intensive therapy;
- c. Significant change in condition; or
- d. Classification changes may also occur based on a determination by VA.

6. Primary Medical Coverage. The assigned CNH provider is the primary medical provider during the nursing home stay and is responsible for writing or approving admission and all other orders as soon as the veteran arrives at the CNH. The CNH provider is responsible for general medical care, urgent evaluation and intervention. Provider visits will be according to the Center for Medicare and Medicaid Services (CMS) guidelines. The assigned nursing home provider will provide timely care following the most current CMS guidelines; arranging 24/7 access for patient care; arranging easy access to staff for consultation; providing timely response to calls and arranging for timely provider back-up according to OBRA guidelines (42 CFR 483.40, OBRA Guidelines).

7. Rehabilitation Criteria. All therapy provided under this BOA will be individual therapy, rather than group therapy, unless otherwise ordered by the authorizing VA facility. Therapy may require pre-approval by VA before services are provided. Medical Restorative criteria will be used for physical therapy, occupational therapy, and speech therapy. Therapy must be skilled, relate to safety and be restorative according to Medicare criteria.

a. **Description of Rehabilitative Therapy.** The concept of rehabilitative therapy includes recovery or improvement in function and, when possible, restoration to a previous level of health and well-being. Therefore, evaluation, re-evaluation and assessment documented in the Progress Report should describe objective measurements which, when compared, show improvements in function, or decrease in severity, or justification for an optimistic outlook to justify continued treatment. Covered therapy services shall be rehabilitative therapy services unless they meet the criteria for maintenance therapy requiring the skills of a therapist.

b. Evaluations/re-evaluations should consider the following: Establishment of treatment goals specific to the patient's disability or dysfunction and designed to specifically address each problem identified in the evaluation; design of a plan of care addressing the patient's disorder, including establishment of procedures to obtain goals, determining the frequency and intensity of treatment; continued assessment and analysis during implementation of the services at regular intervals; instruction leading to establishment of compensatory skills; selection of devices to replace or augment a function (e.g., for use as an alternative communication system and short-term training on use of the device or system); and patient and family training to augment rehabilitative treatment or establish a maintenance program. Education of staff and family should be ongoing.

8. Emergency Care; Financial Responsibility; Advanced Directives. In emergencies, nursing home staff will utilize the 911 local emergency systems as for any resident. Advance directives or living wills shall be adhered to according to CNH physician's orders. When private hospitalization or emergency services are required, the patient, spouse, financial guardian or insurer is financially responsible. Service connected veterans may qualify for VA coverage of emergency care provided the **Alexandria Health Care System** is contacted by the private hospital provider within 72 hours of admission on the first business day following a weekend or holiday. This includes the cost of necessary transportation for such care.

9. HIPAA Compliance. HIPAA compliance is required. The Contractor must adhere to the provisions of Public Law 104-191, Health Insurance Portability and Accountability Act (HIPAA) of 1996 and the National Standards to Protect the Privacy and Security of Protected Health Information (PHI). As required by HIPAA, the Department of Health and Human Services (HHS) has promulgated rules governing the security and use and disclosure of protected health information by covered entities, including the Department of Veterans Affairs (VA). In accordance with HIPAA, the Contractor may be required to enter into a Business Associate Agreement (BAA) with VA, but VACO has recognized CNH Facilities as an entity that **does not require** a BAA as long as they are conducting health care on VA's behalf. The CNH care program qualifies as a medical service, so no BAA is required.

10. State Licensure; Access to CNH Quality of Care Reports (QASP Indicator #1). The CNH must maintain a current and unrestricted state license to operate as a skilled nursing facility. Changes in the status of the licensure will be immediately reported to the **Alexandria Health Care CNH Coordinator, Social Work Services at 318-473-0010**. VA will monitor the professional care and administrative management of services provided to VA beneficiaries under this BOA, through one or any combination of the following methods: reviews of State agencies reports; on-site inspection of the CNH by VA staff; and/or on-site monitoring of VA patients. The CNH shall provide VA with copies of all State agency reports when requested, and cooperate fully with VA's quality improvement or quality assurance program functions relating to this BOA, including VA's on-site inspection and monitoring. The VA Contracting Officer shall make all final determinations as to the Contractor's reasonable cooperation with VA and compliance with these requirements.

11. Corrective Action Plan (QASP Indicator #2). The CNH will cooperate with timely development of Corrective Action Plans (CAPs) related to identified deficiencies and related to State, Federal or VA surveys. The CNH will develop in the time period specified by VA timely and appropriate CAPs for VA surveys or investigation of complaints related to quality of care or sentinel events. The CNH will also supply related documents or data as specified by VA. The CAPs will include but are not limited to the following criteria and shall:

- a. contain elements detailing how the CNH will correct the deficiency as it relates to the individual;
- b. indicate how the CNH will act to protect residents in similar situations;
- c. include the measures the CNH will take or systems that will be altered to ensure that the problem will not recur. The CNH must look at the system and determine if a change to the existing system will work, if a new system is necessary, or if a system does not exist and must be developed;
- d. indicate how the CNH plans to monitor performance to make sure that solutions are permanent. The CNH must develop a quality assurance tool for ensuring that correction is achieved and sustained. This tool must be implemented. Failure to implement a quality assurance tool to sustain compliance will reflect that the CNH has an ineffective quality assurance system; and
- e. provide dates when corrective action will be completed.

12. Life Safety Code. The CNH's building shall conform to the most recent standards of the Life Safety Code (National Fire Protection Association Standard #101) in effect on the date of the BOA award and compliance with all applicable Federal, State and local regulations. The administrator of the CNH is required to notify the VA Contracting Officer in writing at least thirty (30) calendar days prior to any planned facility changes that could impact the Life Safety Code and other safety features of the facility which were in existence at the time this BOA became effective. The VA Contracting Officer will notify the VA Safety Manager responsible for the Life Safety Code inspection of the CNH and he/she will review (inspect the facility if required) the proposed changes and provide necessary approval or disapproval of the CNH to house veterans during and/or after the proposed changes. These changes may include but are not limited to:

- a. Interior changes requiring VA approval. Some examples of facility changes that require the VA Contracting Officer notification are as follows: interior finish, corridor partitions/walls, patient room doors, linen or trash chutes, exits, emergency lighting, fire alarm systems, automatic sprinklers, smoke barrier walls or doors, oxygen systems, compressed gas storage, heating ventilation and air conditioning (HVAC), electrical and fuel gas systems;
- b. Automatic sprinkler system. All VA contracted CNH facilities are to be fully-equipped with a fully-automatic sprinkler system installed in accordance with the National Fire Protection Association's (NFPA) standards and be 100% sprinkled;
- c. Natural disasters. In the event of a natural disaster (flood, tornado, etc.), the CNH shall communicate all action plans to VA. The action plans will at a minimum identify temporary transfers of location, dates, and names of veterans transferred; and
- d. Major construction; additions; and renovations. Major construction including building additions or other renovations which may affect physical plant integrity; SHALL MEET latest NFPA 101 Life/Safety Code requirements as well as any additional VA CNH construction standards in place at time of renovation or alteration.

13. Acceptable Safety and Sanitation Practices. Acceptable safety and sanitation practices shall be observed throughout the facility. The CNH will address employee and patient safety practices through staff orientation, training and adherence to related policy or procedures to provide a safe and clean environment.

14. Re-admission to the VA Hospital and Emergency Care; Notification of Death of Veterans; CNH Responsibility to Veteran's Belongings or Personal Effects (QASP Indicator #3). VA beneficiaries who begin to require more than the level of care authorized by VA will be readmitted to an appropriate VA facility, as determined and authorized by VA.

- a. When such an admission is not feasible because of the nature of the emergency, hospitalization in a non-Federal facility may be accomplished provided VA authorization is obtained. VA authorization must be obtained within 72 hours of admission of the patient to a non-Federal facility and notice of any veteran death within 24 hours or immediately the first business day after a weekend or holiday. If

hospitalization of a non-emergency nature is required, readmission to a VA Medical Center may be accomplished as soon as the patient's condition is sufficiently stabilized to permit admission to a VA Medical Center.

b. In the event of a death of any veteran, the Contractor agrees to notify VA immediately of the death. In the event a death of a VA beneficiary while receiving nursing home care under this BOA, the CNH will promptly notify the VA facility which authorized admission and immediately assemble, inventory, and safeguard the patient's personal effects. The funds, deposits, and effects left by the VA patients upon the premises of the CNH shall be delivered by the CNH to the person(s) entitled thereto under the laws currently governing the CNH for making disposition of funds and effects left by patients, unless the beneficiary died without leaving a will, heirs or next of kin capable of inheriting.

c. When disposition has been made, the itemized inventory with annotation as to the disposition of the funds and effects will be immediately forwarded to the VA facility authorizing admission. Should a deceased patient leave no will, heirs, or next of kin, his/her personal property and funds wherever located vests in and becomes the property of the United States in trust. In these cases, the CNH will forward an inventory of any such property and funds in its possession to the VA facility authorizing admission and will hold them (except articles of clothing necessary for proper burial) under safeguard until instructions are received from VA concerning disposition. CMS regulations require retention of records for five (5) years when there is no requirement in State law.

15. Leave of Absence (LOA) – Bed-Hold Statement. For re-hospitalizations or therapeutic passes, VA will pay a bed hold. Therapeutic passes will be authorized by the CNH staff based on individual patient needs, but are generally limited to two (2) times per month and should be pre-approved. VA will cover bed holds based on the following plan:

The host VA medical center will select one of the following options:

- a) 2 days/episode, pre-approved by VA when in the best interest of the Veteran and VA. Exceptions approved at VAMC level;
- b) Follow Medicare – No Bed Holds; 2) Follow Medicaid – Rule would differ by State;
- c) When deemed appropriate, VA will reimburse the CNH 70% of applicable per diem rate for bed hold not to exceed two (2) days per episode, four (4) days total per month.
- d) VA will reimburse according to the prevailing State Medicaid guidelines.

Bed-hold will begin the date the resident leaves the CNH and full per diem will resume on the date of readmission to the CNH. Absences of fifteen (15) consecutive calendar days or more, whether in a VA or in a non-Federal facility require a new authorization agreement. The nursing home is responsible to notify the family if a bed hold is required for a longer period. The family would then make arrangements with the home to hold the bed.

16. Reportable Events (QASP Indicator #4). VA requires CNHs to report to the CNH Coordinator at VA any of the following events within 24 hours or immediately the first business day after a weekend or holiday: 1) sentinel events; 2) when there is a change of ownership of the CNH; 3) when there is a

change of nursing home administrator or Director of Nursing/Director of Nursing Service; 4) substantiated allegations of mistreatment, neglect, abuse or misappropriation of CNH veterans or property; 5) elopements of CNH veterans pursuant to state regulations; 6) infectious outbreaks; 7) resident to resident or resident to staff altercations involving a CNH veteran resulting in any injury that is other than minor; 8) copies of annual surveys or substantiated complaint investigations conducted by a State oversight agency; and 9) adverse events. Reporting shall include date of occurrence and patient disposition and outcome.

A sentinel event may include, but is not limited to the following: 1) a fall resulting in death or injury; 2) elopement resulting in a missing patient; 3) patient abuse confirmed or under suspicion; 4) a medication error resulting in patient illness or injury; 5) death or patient injury related to restraint (including side rails) use; or 6) death related to an unconfirmed or suspicious cause. When an adverse event occurs involving a CNH Veteran which is not determined to be a Sentinel Event(but that the State requires that the occurrence be reported to the State), such event is also to be reported to VA's CNH program office. Some adverse events, such as minor medication errors without catastrophic outcomes, are managed by the CNH in the context of their quality improvement programs. It is not necessary for nursing homes to report such incidents to the CNH program office.

17. VA Actions Regarding Serious Quality of Care Deficiencies. In cases of serious deficiencies affecting the health or safety of veterans or in cases of continued uncorrected deficiencies, VA will take one or more of the following actions in accordance with the terms and clauses of the BOA and applicable procurement regulations:

- a) Increase VA staffing monitoring until the State survey agency clears the deficiency;
- b) Suspend placement of veterans in the CNH;
- c) Remove or transfer veterans under the BOA from the subject CNH;
- d) Not renew the BOA; and/or
- e) Terminate the BOA.

18. VA Staff Access to CNH Records (QASP Indicator #5). All medical records concerning the veteran's care in the CNH will be readily accessible to VA. Upon discharge or the death of a patient, medical records will be retained by the CNH for a period of at least five (5) years following termination of care. Patient records will be maintained in conformance with the Privacy Act of 1974 (5 U.S.C. § 552a). A medical record shall be maintained for each patient, which includes at least the following:

- a. Alexandria Health Care System Referral Package to the CNH:
 - 1. Copy of Physician Orders for Nursing Home Care; CPRS Notes; Discharge Summary including History & Physical information with Medication List; Rehabilitation Progress Notes; and Veteran Demographic Record which includes next of kin information.
 - 2. Copy of Authorization Agreement (VAF 10-7078).

b. **Nursing Home Clinical Record:** The CNH must maintain clinical records on each veteran in accordance with accepted professional standards and practice. The clinical record must be: complete, accurately documented, readily accessible, systematically organized, and legible. Clinical records must contain at a minimum:

1. Sufficient information to identify the resident;
2. A record of the veteran's assessments, including those assessments performed by services under the BOA with the CNH;
3. The plan of care and services including medication administration, provided by CNH staff and services provided under the BOA with the CNH;
4. Interdisciplinary progress notes to include effect of care provided, veterans' response to treatment, change in condition, and changes in treatment;
5. Medical practitioner orders which are signed and dated;
6. Allergies;
7. Person to contact in an emergency situation;
8. Name of attending medical practitioner; and
9. Advanced directives if available.

c. **Clinical Record Safeguards:** The CNH must safeguard clinical record information against loss, destruction, or unauthorized use. If the CNH maintains a veteran's record by computer, electronic signatures are acceptable. If attestation is done on computer records, safeguards to prevent unauthorized access and to provide for reconstruction of information must be in place.

19. Specialty Services. The CNH will assume responsibility for arranging specialty care for veterans (e.g., dental care, podiatry and ophthalmology).

20. Alexandria Health Care Systems Consultation/Resources.

a. After hours, weekends and holidays: For urgent referrals or consultation contact the Emergency Department AOD, 318-xxx-xxxx.

b. **Transportation:** Necessary transportation to and from the VA hospital for clinics, evaluation or hospitalization will be arranged and paid by the VA hospital for CNH patients when requested.

c. For Specialty care treatment submit a consult to Chief of Staff, Alexandria Health Care Systems, 318-xxx-xxxx.

21. Charitable Contributions. The CNH will not solicit contributions, donations, or gifts from patients or family members. Note: Established charitable fundraising activities of a CNH fall outside the scope of this language.

22. CNH Billing (QASP Indicator #6). Invoices for board, care and ancillary services shall be submitted promptly to the authorizing facility by the 15th calendar day following the end of the month in which services were rendered. The CNH will promptly notify the VA CNH Coordinator regarding any

change in Veteran status: discharge, transfer, against medical advice (AMA), hospitalization, death and/or any changes in payer source and any ability to complete timely billing. All invoices must include the full name and address of the CNH and shall reflect the patient's name, social security number, number of days billed, RUG category(ies), and agreed upon RUG rate (s). Failure to include this information may result in delayed payment. The current CNH Billing Cover Sheet can be obtained from the VA CNH Medical Clerk at (479) 444-5065.

a. Pre-approves services billed by CMS procedures or CPT codes: All services which are pre-approved by VA as additional to the all-inclusive per diem rate must be billed according to CMS procedures or CPT codes. The CNH will be reimbursed based on local guidelines and VA pricing schedules.

b. Alexandria Health Care System will provide all medication. Alexandria Health Care System will pay the CNH for a 5 day emergency supply medication as needed by the Veteran.

23. Minimum Quantities; VA Payment. It is impossible to determine the exact or estimated amount, which will be expended under this BOA. No obligation will be incurred by VA under this BOA, until authorizations are issued for nursing home care of specific beneficiaries. Invoices must be submitted by the 15th of each month. VA agrees to make payment on a timely basis for services rendered in accordance with such authorizations upon receipt of proper invoices submitted by the CNH as outlined in this BOA. VA will make payment for the day a recipient enters the CNH but not the day the recipient leaves a CNH unless entrance and departure are on the same day, then payment will be made for one (1) day.

24. VA Payments. Payments made by VA under any contract pursuant to this BOA, constitutes the total cost of nursing home care. No additional charges will be billed to Medicare (with the exception of hospice), Medicaid, or private insurance, the beneficiary or his/her family, either by the CNH or any third party furnishing services or supplies required for such care, unless and until specific prior authorization in writing is obtained from the VA facility authorizing placement. The patient, family and any other entitlement programs (e.g., Medicare, Medicaid, etc.) will not be billed for uncovered services or costs during the VA contract period. This constitutes double-billing and Federal fraud.

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END PERFORMANCE WORK STATEMENT