

**U.S. Department of Veterans Affairs**



**Report to Congress on Mental and Behavioral Health Care  
Services for Former Members of the Armed Forces  
Released Under a Condition Other Than Honorable**

**March 2019**

## **Background**

Public Law (Pub. L.) 115-141, Division J, section 258 modified United States Code (U.S.C.) title 38 to add section 1720I (38 U.S.C. § 1720I), which specifically authorizes the Department of Veterans Affairs (VA) to provide ongoing mental and behavioral health care to individuals who (1) are former members of the Armed Forces, including the reserves; (2) while serving in the active military, naval, or air service, were discharged or released under a condition that is not honorable, but also not dishonorable or by court martial; (3) are not enrolled in the VA health care system; and (4) have served in the Armed Forces for more than 100 cumulative days and been deployed in combat operations, or while serving have experienced military sexual trauma. Section 1720I requires VA to notify all former Servicemembers (current and future), who are potentially eligible for this benefit, about the care and services available under this authority. To start meeting this requirement, in December 2018, VA mailed approximately 500,000 letters to individuals who have an Other Than Honorable (OTH) discharge.

## **Report**

This report is to provide Congress with the most accurate information available regarding VA implementation of section 1720I "Mental and behavioral health care for certain former members of the Armed Forces."

The focus of this legislation is to save lives, as research demonstrates that those who left the service with an OTH discharge may have an elevated risk for suicide. Additionally, it is known that the rate of death by suicide among Veterans who do not use VA care is increasing at a significantly greater rate than that among Veterans who use VA care. VA views the decision to provide immediate mental health care to these former service members as a moral and humanitarian obligation.

Of note, prior to enactment of section 1720I, VA had authority to provide and provided care to this at-risk OTH population. Relying on this existing authority, the Veterans Health Administration (VHA) launched an initiative in July 2017 to ensure that all VHA medical centers are prepared to offer emergency stabilization care for certain former Servicemembers who present with an emergent mental health need related to their service. This allowed these former Servicemembers with an OTH administrative discharge to receive care for their mental health emergency until it is stabilized. In Fiscal Year (FY) 2018, 2,350 OTH individuals had encounters or stays in VHA. Of these individuals, 70.3 percent were evaluated in specialty mental health clinics, and 65 percent were treated for mental health conditions. With regards to specific mental health diagnoses, 20.3 percent were treated for Depression; 19.5 percent were treated for Substance Use Disorders; 12.8 percent were treated for Post-Traumatic Stress Disorder, and 6 percent were treated for Serious Mental Illness (i.e., Schizophrenia, Bipolar, or Psychosis). Public Law 115-141, Division J, section 258; 38 U.S.C. § 1720I authorizes VA to expand mental health care from emergency mental health care to ongoing mental health care for eligible former Servicemembers, as described above.

## **Communication with former Servicemembers who have OTH Discharges**

In December 2018 VA mailed letters (Attachment A) to approximately 500,000 individuals who received an OTH discharge. To mail these letters, VA obtained the last address of record for these individuals from the Department of Defense (DoD). The letter informed individuals that they may be eligible for mental health services from VA, and encouraged them to call VA to find out about their eligibility. This letter marks the first occasion where VA has engaged in direct targeted outreach to the OTH population. Previous outreach was conducted through VA press releases and Veterans Service Organizations.

## **Communication with the Field**

Network Directors were informed about 38 U.S.C. § 1720I on the Network Director Call held November 15, 2018. On December 14, 2018, a formal memorandum was sent to Network Directors about this legislation (Attachment B). This memorandum was accompanied by "Frequently Asked Questions" (see Attachment C which has been revised in order to avoid confusion, and VA plans to resend), and encouraged sites to contact VA Central Office with further questions regarding the implementation of this legislation.

The following trainings were also conducted with Veterans Integrated Service Networks (VISN) and field staff:

- December 12, 2018 – Eligibility Staff
- December 17, 2018 – VISN Mental Health Leadership
- January 4, 2019 – Combined Mental Health Call
- January 7, 2019 – Mental Health Access Call

In all trainings, staff were informed that VHA Directive 1601A.02 Eligibility Determinations was updated to include information about section 1720I.

## **Next Steps**

VA is currently developing a solution in the Electronic Health Record to assist the field in tracking the utilization of mental health care by the OTH population (those who qualify for ongoing mental health care under this new legislation and those who are eligible to receive emergent mental health care). VA is also in the process of updating regulations.

## **Conclusion**

38 U.S.C. § 1720I authorizes access to mental health services for some individuals with an OTH discharge. To reduce the suicide rate, VA is taking action to make mental health care available as widely as possible. VA will not relent in efforts to connect those, who are experiencing an emotional or mental health crisis, with lifesaving support.

# Attachment A

Dear FIRST NAME LAST NAME,

You are receiving this notification because you may be eligible for services from the U.S. Department of Veterans Affairs (VA).

Congress recently passed a law that allows VA to provide mental and behavioral health care to certain former service members with Other Than Honorable (OTH) discharges, including those who

- (1) were on active duty for more than 100 days and served in a combat role, or
- (2) experienced sexual harassment or sexual assault while serving.

Additionally, VA may be able to treat a mental illness presumed to be related to military service. When VA is unable to provide care, VA will work with partner agencies and will assist in making referrals for additional care as needed. You can call or visit a VA medical center or Vet Center and let them know that you are a former service member with an OTH discharge who is interested in receiving mental health care. You can find mental health, substance use disorder, and military sexual trauma services at your local VA medical center or Vet Center by visiting [MakeTheConnection.net/FindResources](https://www.maketheconnection.net/FindResources) and entering information about your location.

Individuals receiving discharges that were not honorable may qualify for VA benefits depending on a Character of Discharge determination made by VA. To learn more about this process, please visit [https://www.benefits.va.gov/benefits/character\\_of\\_discharge.asp](https://www.benefits.va.gov/benefits/character_of_discharge.asp).

To find out about your eligibility, please call 1-877-222-8387 (VETS).

Thank you.

## Veterans and Military Crisis Line

All active duty and former service members, Veterans, and their family members can contact the Veterans and Military Crisis Line through a confidential toll-free hotline, text-messaging service, or online chat. Trained, qualified, and caring responders are available to provide confidential crisis intervention and support 24 hours a day, 7 days a week, 365 days a year.

- Call 1-800-273-8255 and Press 1 to receive crisis intervention services by phone.
- Text to 838255 to start a text message conversation.
- Visit [VeteransCrisisLine.net/Chat](https://www.veteranscrisisline.net/Chat) to chat with a responder. Or call 911 or go to the emergency department at a VA medical center.





## Attachment B

Department of  
Veterans Affairs

# Memorandum

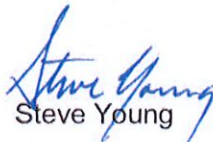
Date: DEC 14 2018

From: Deputy Under Secretary for Health for Operations and Management (10N)

Subj: Mental and Behavioral Health Care to Certain Former Servicemembers

To: Veterans Integrated Service Network (VISN) Directors (10N1-23)  
Medical Center Directors (00)

1. The purpose of this memorandum is to introduce the Consolidated Appropriations Act, 2018, which created a new section 1720I in title 38, which requires Department of Veterans Affairs (VA) to furnish a mental health assessment and needed mental and behavioral health care services to certain Former Servicemembers.
2. Former Servicemembers with Other Than Honorable (OTH) are eligible, under this authority, for an initial mental health assessment and mental and behavioral health care services required to treat their mental or behavioral health care needs, as long as no statutory bar applies and specific eligibility criteria are met. VHA Directive 1601A.02, Eligibility Determinations, has been revised to clarify and provide guidance on this treatment authority. See attachments for a list of Frequently Asked Questions and a General OTH Letter.
3. Questions regarding this memorandum should be directed to [VHAHECEEDAdministrators@va.gov](mailto:VHAHECEEDAdministrators@va.gov).

  
Steve Young

Attachment

## Attachment C

### Mental and Behavioral Health Treatment for Veterans with Other Than Honorable (OTH) Discharges Frequently Asked Questions (FAQ's)

**Q1:** Can all former Servicemembers with OTH discharges get mental health care under this authority?

**Answer:** Former Servicemembers with OTH discharges are eligible for care under this authority if they *present for mental and behavioral health care* and meet the eligibility criteria detailed in 38 U.S.C. § 1720I. For other services and for former Servicemembers who are not eligible under § 1720I, sites should follow established procedures for former Servicemembers, including assessing eligibility under other authorities (such as 38 U.S.C. § 1702) and encouraging them to apply for enrollment.

**Q2:** Does the former Servicemember have to present a copy of their DD-214 when seeking mental health treatment?

**Answer:** No. Staff should access the Veterans Information Solution (VIS) to obtain the Veterans Character of Discharge.

**Q3:** Does the VA Medical Center (VAMC) have to submit VA Form 20-0986, Character of Discharge (COD) Determination, to the Veterans Benefits Administration (VBA) for adjudication?

**Answer:** No. A COD determination is not required to establish eligibility for 38 U.S.C. § 1720I.

**Q5:** What process should sites take if VBA determines the former Servicemember has a statutory bar to treatment?

**Answer:** Coordinate with Social Work staff to assure a seamless transition to community resources or the local Vet Center, if eligible, for follow-up care. Humanitarian billing will be created for ineligible former Servicemembers consistent with VA authority.

**Q6:** What do we do if an individual has been determined to be "Dishonorable for VA Purposes (DVA)" and after we have transitioned the individual, s/he walks back into the facility and wants to receive mental health care but is not in a crisis situation?

**Answer:** If a VHA Clinician determines the individual is not in a mental health crisis, follow existing procedures for treating individuals determined to be ineligible for VA health care.

**Q8:** Should former Servicemembers be referred directly to mental health for an appointment as opposed to a vesting appointment?

**Answer:** Generally, vesting is a function of VHA's Veterans Equitable Resource Allocation (VERA) model for enrolled Veterans. This new treatment authority is outside of the enrollment authorities.

**Q9:** What is included in mental health care services?

**Answer:** Under VA policy, *mental health care services* include but are not limited to services for the evaluation, diagnosis, treatment, and rehabilitation of mental disorders, including substance use disorders.

**Q10:** Are individuals that received Dishonorable and Bad Conduct Discharges eligible for mental health services?

**Answer:** These discharge types present a statutory bar to VA health care. Individuals with these discharges should be treated pursuant to Humanitarian authority if they present with an emergency health care need – stabilized and transferred to care in the community.

**Q11:** Will the information in VistA be also visible on the CPRS medical cover page?

**Answer:** The information placed in the VistA remarks will transmit to CPRS under Patient Inquiry.

**Q12:** Is there any maximum term of services for mental illness/psychosis presumptive eligibility under 38 U.S.C. § 1702?

**Answer:** No. Care under § 1702 is not time limited. If a former Servicemember satisfies the criteria in § 1702(a) (psychosis) or § 1702(b) (mental illness that develops within two years after discharge or release from the active military, naval, or air service; and before the end of the two-year period beginning on the last day of the Persian Gulf War), the former Servicemember is eligible for care under this authority for as long as the psychosis or mental illness persists.