

Veteran Directed Care Temporarily Traveling Veterans

Overview

It is possible in certain situations and under certain conditions to continue providing Veteran Directed Care (VDC) program coverage for a Veteran *temporarily* traveling in the United States for under 180 days. As outlined below, the guidance differs depending on whether the VDC program operates under the Joint-Employer - Agency with Choice (AwC) Financial Management Service (FMS) model or the Common Law Employer-Vendor Fiscal/Employer Agency (VF/EA) FMS model.

Common Law Employer - VF/EA FMS Model

Under the Common Law Employer–VF/EA FMS model, the Veteran or their designated representative is the common law employer of their direct care workers. VDC program coverage may continue for a traveling Veteran enrolled in a VDC program under this model. When implementing the VDC temporarily traveling Veteran guidance, the VF/EA FMS entity serving the Veteran must evaluate and implement the applicable labor, tax and workers' compensation and other required insurance rules. Additionally, the VF/EA FMS entity must evaluate any potential liability for the state where the Veteran is residing on a temporary basis outside the Veteran's "home" state. If VF/EA FMS entity serving the Veteran determines that all tax and labor rules can be met in the travel state and the Veteran/representative-employer's workers' compensation insurance policy will cover the direct care worker working out-of-state with the Veteran, then the VF/EA FMS entity can implement the temporarily traveling Veteran guidance.¹ In addition, the following conditions must be met:

- Time period of the relocation cannot exceed 180 days.
- VA VDC program coordinator and the VDC provider agree that the VDC coverage is feasible and that the Veteran will be able to manage employer responsibilities while at the temporary residence.
- Veteran employee(s) travel with the Veteran and will continue to be VDC employee(s) and provide personal care assistance to the Veteran at the temporary location.
- Monthly video or, at a minimum, telephonic communication must be established and maintained between the Veteran and the VDC provider to ensure required monthly communications and ongoing care management occur.
- VDC provider must continue to conduct face-to-face or virtual visits at least quarterly to monitor Veteran's well-being.
- VA VDC program coordinator will be able to establish communication with Veteran as required to complete the Personal Care Services Review at 180 days and reauthorization.
- Care **MUST** be provided within a designated US State or District of Columbia (Washington, D.C.), a US Commonwealth, or US Territory.

¹ It is advised the VF/EA FMS entity work with knowledgeable legal and accounting staff.

If the VF/EA FMS entity serving the Veteran cannot determine that all tax and labor rules can be met in the travel state and the Veteran/representative-employer's workers' compensation insurance policy will not cover the direct care worker working out-of-state with the Veteran, then the Veteran will use a combination of unpaid, informal (i.e., family care) and paid care from an in-state home health agency while they are residing at the temporary location.^{2,3} Veterans are encouraged to stay within their average monthly budget amount to ensure availability of VDC budget funds through the entire authorization period. If the Veteran's authorized budget amount is exhausted prior to the end of the authorization period, the Veteran will be responsible to cover the remainder of the costs through private funds. VA will not approve authorization amendments for any costs that exceed the Veteran's authorized budget resulting from travel care arrangements.

Joint Employer – Agency with Choice FMS Model

VDC programs implement this FMS model primarily in three states due to state requirements (NH, NY and WA State). Under the Joint Employer-AwC FMS model, the Aging and Disability Network Agency (ADNA)/AwC FMS entity is the employer of record of Veterans' direct care workers. When implementing the VDC temporarily traveling Veteran guidance, the ADNA/AwC FMS entity must evaluate and implement the applicable labor, tax and workers' compensation and other required insurance rules. Additionally, the ADNA/AwC FMS entity must evaluate any potential liability for the state where the Veteran is residing on a temporary basis outside the "home" state in which the ADNA operates.^{4,5}

If the ADNA/AwC FMS entity determines that it is not possible to implement the VDC temporarily traveling Veteran guidance for a Veteran, then the Veteran will use a combination of unpaid, informal (i.e., family care) and paid care from an in-state home health agency while they are residing at the temporary location.⁶ Veterans are encouraged to stay within their average monthly budget amount to ensure availability of VDC budget funds through the entire authorization period. If the Veteran's authorized budget amount is exhausted prior to the end of the authorization period, the Veteran will be responsible to cover the remainder of the costs through private funds. VA will not approve authorization amendments for any costs that exceed the Veteran's authorized budget resulting from travel care arrangements.

² It is advised the VF/EA FMS entity work with knowledgeable legal and accounting staff.

³ The Veteran's spending plan must be amended and approved to reflect the home health agency costs up to the amount allowed for in the Veteran's authorized budget.

⁴ The ADNA/AwC FMS entity reviews the tax, labor, worker's compensation and other applicable insurance and any other benefits of the state where the Veteran will be residing on a temporary basis to ensure compliance. It is advised the FMS work with knowledgeable legal and accounting staff.

⁵ An injured worker may have the option to submit a worker's compensation (WC) insurance claim in the travel state rather than in the home state. WC benefit amounts may be different. If the direct care worker chooses to file a WC claim in the state that offers the highest benefit amount, the ADNA/AwC FMS entity would have to provide current wage information for the direct care worker for them to compute the benefit to be paid to the worker.

⁶ The Veteran's spending plan should be amended to reflect the home health agency costs up to the amount allowed for in the Veteran's authorized budget.

Appendix A. Temporarily Traveling Veteran Request Examples

The following scenarios may assist in helping determine the appropriate process.

Scenario 1:

VDC Veteran living in Boston, MA plans to stay at their winter home in Orlando, FL from 1/16/2023 to 5/10/2023 (115 days). Their VDC employee will be traveling with them to provide personal care assistance. The VDC provider has confirmed they will continue to conduct monthly contacts and face-to-face or virtual quarterly contacts with Veteran during the episode of travel and the VA VDC program coordinator will be able to establish communication with Veteran as required to complete the Personal Care Services Review at 180 days and reauthorization.

Can the Boston VA maintain Veteran's VDC program enrollment?

Yes, because:

- Veteran will be traveling for less than 180 days.
- VDC employee is traveling with Veteran.
- VF/EA FMS entity serving the Veteran determines that all tax and labor rules can be met in the travel state and the Veteran/representative-employer's workers' compensation insurance policy will cover the direct care worker working out-of-state with the Veteran.
- VDC provider has confirmed they will continue to conduct monthly contacts and face-to-face or virtual quarterly contacts with Veteran during the episode of travel.
- VA VDC program coordinator will be able to establish communication with Veteran as required to complete the Personal Care Services Review at 180 days and reauthorization.

Scenario 2:

VDC Veteran living in Houston, TX will be traveling to Kansas City, MO from 2/15/2023 through 9/10/2023 (208 days) to be near their daughter. The Veteran has identified a new VDC employee at the temporary location to provide their personal care assistance while staying in Kansas City. The VDC provider has confirmed they are able to maintain communication and care coordination with Veteran virtually and the VA VDC program coordinator will be able to establish communication with Veteran as required to complete the Personal Care Services Review at 180 days and reauthorization.

Can the Houston VA maintain Veteran's VDC program enrollment?

No, because:

- Veteran will be traveling for more than 180 days.
- The current VDC employee is not traveling with Veteran.

Scenario 3:

VDC Veteran living in Albany, NY plans to travel to Puerto Rico from 3/7/2023 to 6/2/2023 (87 days) to visit family. Their VDC employee will be traveling to Puerto Rico with them to provide their personal care assistance. The VDC provider has confirmed they will continue to conduct monthly contacts and face-to-face or virtual quarterly contacts with Veteran during the episode of travel and the VA VDC program coordinator will be able to establish communication with Veteran as required to complete the Personal Care Services Review at 180 days and reauthorization. However, the ADNA/AwC FMS entity determined that it is not possible to implement the VDC temporarily traveling Veteran guidance due to the inability to comply with applicable labor, tax and workers' compensation and other required insurance rules.

Can the Albany VA maintain Veteran's VDC program enrollment?

Yes, however:

- The Veteran will need to use a combination of unpaid, informal (i.e., family care) and paid care from an in-state home health agency while they are residing at the temporary location.
- If home health agency care costs more than the Veteran's allocated monthly average budget for the applicable month(s) that they are away, the Veteran must cover the remainder of the costs through private funds.

Scenario 4:

VDC Veteran living in Miami, FL will be traveling to Bogota, Columbia from 3/19/2023 through 5/29/2023 (71 days) to visit an ailing relative. Their VDC employee, Veteran's wife, will be traveling with them and will be able to provide their personal care assistance. The VDC provider has confirmed they will be unable to conduct monthly contacts and face-to-face or virtual quarterly contacts with Veteran during the episode of travel and the VA VDC program coordinator will not be able to establish communication with Veteran as required to complete the Personal Care Services Review at 180 days and reauthorization.

Can the Miami VA maintain Veteran's VDC program enrollment?

No, because:

- Veteran will be traveling to a foreign country.
- The VDC provider has confirmed they will be unable to conduct monthly contacts and face-to-face or virtual quarterly contacts with Veteran during the episode of travel.
- VA VDC program coordinator will not be able to establish communication with Veteran as required to complete the Personal Care Services Review at 180 days and reauthorization.