

March 12, 2018

David J. Shulkin  
Secretary  
Department of Veterans Affairs  
810 Vermont Avenue, N.W.  
Room 1063B  
Washington, DC 20420

**Re: RIN 2900-AQ08**

**Re: Interim Final Rule on Reimbursement for Emergency Treatment**

Dear Secretary Shulkin,

On behalf of more than 37,000 members, the American College of Emergency Physicians (ACEP) appreciates the opportunity to comment on the interim final rule (IFR) on reimbursement for emergency treatment, as it affects our practice of emergency medicine and the patients we serve.

ACEP is pleased that the VA is now able to process claims that were pended since April 8, 2016 for reimbursement for reasonable costs that were only partially paid by a veteran's other health insurance (OHI) when he or she received emergency care for a non-service connected condition at a non-VA facility. We appreciate that the changes included in this IFR will enable the VA to cover veterans' remaining liability up to a certain amount for such emergency treatment and transportation, and we agree that none of our veterans should ever experience excessive out-of-pocket costs for emergency treatment.

We understand that VA payment in such cases is the lesser of the amount for which the veteran is personally liable or 70 percent of the applicable Medicare fee schedule amount, excluding copayment, cost share or deductible associated with the veteran's OHI. Emergency departments play a critical role in communities across the country and fundamentally serve as each community's safety net. Therefore, it is important that the reimbursement collected from the VA and all other payers are adequate to allow for the recruitment and retention of sufficient numbers of qualified providers to meet each community's needs with sufficient staffing 24 hours a day, 7 days a week. Specifically, ACEP believes that emergency physicians and providers should be reimbursed at the fair-market value for the services that they render. The fair-market value of an emergency physician's services is on average equal or close to the usual and customary charges of most providers in a defined geographic area. Payment below the fair market value for emergency services could potentially jeopardize the financial viability of the emergency care safety net.

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We appreciate the opportunity to share our comments and look forward to working with you and your staff on issues relating to the emergency care of our nation's veterans. If you have any questions, please contact Jeffrey Davis, ACEP's Director of Regulatory Affairs at [jdavis@acep.org](mailto:jdavis@acep.org).

Sincerely,

A handwritten signature in black ink that reads "Paul D. Kivela". The signature is written in a cursive style with a large, looped initial "P".

Paul D. Kivela, MD, MBA, FACEP  
ACEP President