



Ministry
of Defence

Defence Business Services

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DBSRES-Secretariat@mod.gov.uk

31 March 2023

Dear [REDACTED]

Thank you for your email of 2 March 2023 to the Ministry of Defence (MOD) requesting the following information:

I am writing as I am a British Army veteran living in the USA.

As per the attached document I am requesting a copy of the 'Executive summary of the memorandum of understanding (MOU) for the Treatment of Defence Business Services Vets UK (DBS Vets UK) war pensioners and/or Armed Forces Compensation scheme (AFCS) members residing in the USA.'

This will enable me to approach the Veterans Affairs office here in the USA to establish healthcare as per their Veterans affairs website:

I am treating your correspondence as a request for information under the Freedom of Information Act 2000 (FOIA).

A search for the information has now been completed within the MOD and I can confirm that all information in scope of your request is held. Please find attached a copy of the Executive Summary supporting the Memorandum of Understanding for the treatment of Defence Business Services Vet UK.

Under Section 16 advice and guidance you may wish to know that work is currently underway to update the current MOU. Although the MOU has not been updated, the contents remain appropriate.

Legal authority for the provision of overseas treatment under the War Pension Scheme is provided under Article 21 of the Service Pensions Order (2006).

<https://www.legislation.gov.uk/uksi/2006/606/contents/made>

This legislation gives the Secretary of State a general discretionary power to meet medical expenses. This general power is used to meet the cost of treatment where the need arises wholly or mainly from the accepted disablement. However, this does not include general healthcare and only covers disablement accepted under the War Pension Scheme.

Further information can be obtained via the Veterans Helpline on +44 1253 866 043 or by emailing: veterans-uk@mod.gov.uk

If you have any queries regarding the content of this letter, please contact this office in the first instance.

If you wish to complain about the handling of your request, or the content of this response, you can request an independent internal review by contacting the Information Rights Compliance team, Ground Floor, MOD Main Building, Whitehall, SW1A 2HB (e-mail CIO-FOI-IR@mod.gov.uk). Please note that any request for an internal review should be made within 40 working days of the date of this response.

If you remain dissatisfied following an internal review, you may raise your complaint directly to the Information Commissioner under the provisions of Section 50 of the Freedom of Information Act. Please note that the Information Commissioner will not normally investigate your case until the MOD internal review process has been completed. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. Further details of the role and powers of the Information Commissioner can be found on the Commissioner's website at <https://ico.org.uk/>.

Yours sincerely

A black rectangular redaction box covering the signature of the Defence Business Services Secretariat.

Defence Business Services Secretariat

**Executive Summary supporting the Memorandum of Understand (MOU) for the
Treatment of Defence Business Services Vets UK (DBS Vets UK)
War pensioners and/or Armed Forces Compensation Scheme (AFCS) members residing in
the United States of America**

Purpose

The United States Department of Veterans Affairs (VA) is entering into a memorandum of understanding (MOU) with the DBS Vets UK of the United Kingdom (UK) for the VA to provide health care to Allied Beneficiaries of the United Kingdom residing in the United States and provide an overview of the policies and procedures related to such care.

Responsible Offices

Veterans Health Administration, Chief Business Office and the Operational Policy Planning and Training Group, DBS Vets UK.

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Abbreviations

AFCS	Armed Forces Compensation Scheme
VA	Department of Veterans Affairs
VIC	Veterans Identification Card
VISTA	Veterans Information Systems and Technology Architecture
DBS Vets UK	Defence Business Services Vets UK

MOU for the Treatment of DBS Vets UK War Pensioners and AFCS Members Residing in the US

1. LEGAL AUTHORITY

In accordance with VA, 38 U.S.C. § 109, allied beneficiaries are defined as former members of the armed forces of nations allied with the United States in World War I and World War II, who are eligible for treatment within the VA Health Care System upon authorization from accredited officials of the respective governments. The authorities for the provision of care are provided at 38 Code of Federal Regulations (CFR) Parts 17.41(e), 17.42, 17.43(a) (3), 17.94, 17.102(d), 17.102(h), and Title 38 United States Code (U.S.C.) Section 109(a) (1)-(3). (Please see Appendix 2)

DBS Vets UK's legal authority for provision of overseas treatment for individuals injured as a result of service before April 6, 2005 is provided under article 21 of the Service Pensions Order (2006). This legislation gives the UK Secretary of State authority to defray necessary medical expenses for treatment of a member of the armed forces of the United Kingdom arising as a result of disablement due to service before April 6, 2005, under such conditions and up to such amounts as he may determine. The general power is used to meet the cost of treatment where the need arises wholly or mainly from the accepted disablement and is not provided under the National Health Service in the UK. (Please see Appendix 1)

DBS Vets UK's legal authority for provision of treatment for individuals injured as a result of service on or after April 6, 2005 is provided under article 28 the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011. This legislation gives the UK Secretary of State, a discretionary power to defray necessary expenses in respect of medical, surgical or rehabilitative treatment of an Armed Forces Compensation Scheme (AFCS) member arising from injury due to service in the British Armed Forces providing:

- they are repatriated or emigrate within 12 months of discharge from service.
- the member is considered to be seriously injured at the point of discharge.
- the member is ordinarily resident in the US outside the UK when expenses are incurred.

(Please see Appendix 1)

2. DBS VETS UK's GENERAL POLICY

As there is no National Health Service outside of the UK, it is the UK Secretary of State's general policy to use the discretionary power provided by discretionary legislation to defray the cost of treatment for a war pensioner or AFCS member residing outside the UK where it is clinically necessary, for disablement due to service, provided the treatment is not available free of charge through the health system in the country of residence. Treatment may include surgery, rehabilitation, appliances and medication. The intention is to put overseas resident war pensioners or AFCS members on an equal footing with their UK counterparts.

3. DEFINITIONS

- Allied Beneficiaries.** Allied beneficiaries are former members of the armed forces of nations allied with the United States (U.S.) in World War I (WWI) (except any nation which was an enemy of the United States during World War II) or World War II (WWII). **NOTE:** An individual Veteran need not have served in either WWI or WWII, but must be Veteran of a nation that was allied with the U.S. in WWI or WWII as established here.
- War Pensioner.** A former member of the armed forces who has received a war pension or gratuity for disablement, due to service before April 6, 2005, and for this MOU, served as an Allied Force during World War I and/or World War II with the United States of America.

c. **AFCS member.** A member or former member of the armed forces of the United Kingdom who has received compensation for injury due to service on or after April 6, 2005.

4. SCOPE

This MOU provides details on the eligibility and provisions of medical treatment or other medical services for Allied Beneficiaries of the UK residing in the USA, at VA Healthcare Facilities, at the request of DBS Vets UK.

5. ELIGIBILITY OF ALLIED BENEFICIARY/WAR PENSIONER IN RECEIPT OF A UK WAR PENSION

DBS Vets UK will determine eligibility of war pensioners prior to them receiving care from VA. Eligibility will be based on the criteria below:

- a. have an assessable degree of disablement exceeding NIL-0%
- b. have received a war pension or gratuity for that disablement
- c. have received approval from DBS Vets UK before receiving treatment
- d. be resident in the USA

Note: NIL-0% assessment of disablement does not qualify a war pensioner for approval of treatment costs from the DBS Vets UK.

6. ELIGIBILITY OF ALLIED BENEFICIARY/AFCS MEMBER IN RECEIPT OF AN AFCS AWARD

DBS Vets UK will determine eligibility of AFCS members prior to them receiving care from VA. Eligibility will be based on the criteria below:

- a. be defined as seriously injured with an award in tariff level 1-8
- b. have been repatriated or emigrate within 12 months of discharge from service
- c. have received approval from DBS Vets UK before receiving treatment;
- d. be resident in the USA

7. PROVISION OF SERVICE FOR ALLIED BENEFICIARY/WAR PENSIONER IN RECEIPT OF A UK WAR PENSION

VA, through its various facilities, will provide, as requested, disablement war pension medical exams, treatment and provision of appliances on behalf of the DBS Vets UK for war pensioners and AFCS members residing in the USA. CBO will coordinate services that are requested to be provided through VA facilities as well as services to be provided by non-VA entities. The Secretary, in carrying out the provisions of subsection 38 USC 109(a) (1-3), may contract for necessary services in private, State, and other Government hospitals.

7.1 Requests for medical examinations

DBS Vets UK's will send requests for VA to perform medical examinations at VA facilities by Diplomatic Bag. For every request, DBS Vets UK will:

- complete a WPA 1145 with a description of what expenditures are authorized,
- all relevant documents, including the WPA1145, and provide a copy of WPA 1145 to the war pensioner or AFCS member by using the appropriate postal services

7.2 Return of medical examinations

VA will ensure the completed medical examination reports from VA facilities are returned to the DBS Vets UK through international courier no later than 60 business days after the exam has been completed.

7.3 Treatment

If a war pensioner or AFCS member residing in the USA requires treatment for an accepted disablement, he or she must contact the Allied Beneficiary POC, Chief Business Office, and Department of Veterans Affairs, who will forward details to the DBS Vets UK to determine whether the individual is eligible to receive the requested treatment. The war pensioner or AFCS member may also contact the DBS Vets UK directly for authorization. Upon meeting the eligibility criteria and receipt of the appropriate authorization form WPA 1145, VA will arrange for treatment at a VA facility.

DBS Vets UK will furnish a copy of the authorization form WPA 1145 to the war pensioner or AFCS member by using the appropriate postal services, documenting the approved treatment.

DBS Vets UK will provide a written response, to all requests for treatment submitted by the Allied Beneficiary POC, Chief Business Office or by the war pensioner or AFCS member within 21 business days of receipt of such requests for treatment. If a response is not received in the aforementioned time frame, the DBS Vets UK will provide an update as to the status of such requests to the Allied Beneficiary POC, Chief Business Office.

No service provided under this agreement, as determined by the head of the providing facility, will adversely affect the range of services, quality of care, or the established priorities for care provided to the primary/core beneficiaries of the party providing services under this agreement.

7.4 Outpatient Medical Treatment

Outpatient treatment will be furnished to eligible war pensioners or AFCS members at a VA health care facility or through the Non-VA Medical Care Program as determined by the Clinic Director or designee and authorized by the DBS Vets UK.

7.5 Emergency Outpatient Treatment

In an emergency, outpatient treatment can be provided to the war pensioner or AFCS member at a VA health care facility even though the facility may not have authorization at the time services are performed. VA will seek approval from DBS Vets UK for the services provided by providing a request for reimbursement of the treatment with supporting documentation.

If it is determined the war pensioner or AFCS member was not eligible for the treatment provided on an emergency basis, they may remain hospitalized only until transfer to a non-Federal hospital can be arranged. The war pensioner or AFCS member will be billed by VA at cost-based rates in accordance with 38 C.F.R. 17.102 as defined in 38 C.F.R 17.102(d), for services provided.

7.6 Non-emergency Outpatient Treatment

A war pensioner or AFCS member requiring non-emergency outpatient services must have DBS Vets UK authorization for the required services prior to treatment.

7.7 Inpatient Medical Treatment

Pursuant to 38 U.S.C. § 109, hospitalization in a VA health care facility will not be afforded except in emergencies, unless there are available beds surplus to the needs of Veterans of the USA.

7.8 Emergency Inpatient Treatment for War pensioner or AFCS members

Emergency inpatient treatment can be provided to a war pensioner or AFCS member in a VA health care facility even though the facility may not have authorization at the time services are provided.

If it is determined the war pensioner or AFCS member was not eligible for the inpatient treatment provided on an emergency basis, they may remain hospitalized only until transfer to a non-Federal hospital can be arranged. The war pensioner or AFCS member will be billed by VA at cost-based rates in accordance with 38 C.F.R. 17.102 as defined in 38 C.F.R 17.102(d), for services provided.

7.9 Non-Emergency Inpatient Treatment for War pensioner or AFCS members

A war pensioner or AFCS member requiring non-emergency in-patient treatment may not be treated until the DBS Vets UK has provided authorization for such services.

7.10 Dental Treatment for War pensioner or AFCS members

Dental treatment is furnished to eligible war pensioners or AFCS members either on an outpatient or inpatient basis at a VA health care facility or referral to Non-VA provider as determined by the Chief, Dental Services, or designee and approved by the DBS Vets UK.

7.11 Emergency Dental Treatment

Emergency dental treatment may be provided to war pensioners or AFCS members even though the facility may not have authorization at the time services are provided.

If it is later determined that the war pensioner or AFCS member was not eligible for the dental treatment on an emergency basis, no further treatment may be provided unless the required services have been authorized by DBS Vets UK.

The war pensioner or AFCS member is to be billed at the cost-based rates, as defined in 38 C.F.R 17.102(d), for services provided.

7.12 Non-Emergency Dental Treatment

A war pensioner or AFCS member requiring non-emergency dental treatment may not be treated until the DBS VETS UKS provides authorization for the required treatment.

7.13 Prosthetic Appliances, Sensory Aids, Cosmetic Restorations, Artificial Eyes, and/or Medical Accessories for War pensioner or AFCS members

Prosthetic appliances, sensory aids, cosmetic restorations, artificial eyes, and/or medical accessories may be furnished to, and/or replaced or repaired for a war pensioner or AFCS member when determined medically necessary by VA and authorized by DBS Vets UK.

7.14 Transportation of a war pensioner or AFCS member

Authorized transportation, including ambulance transportation, may be provided for the war pensioner or AFCS member if authorized by the DBS Vets UK and in accordance with VA beneficiary travel policy.

7.15 Transportation of a war pensioner or AFCS member without authorization

Allied beneficiaries presenting in-person for examination, treatment, or hospitalization without authorization for services may be reimbursed the cost of transportation if medical care and transportation is subsequently authorized by the DBS Vets UK. VA will reimburse the war pensioner or AFCS member after reimbursement by the DBS Vets UK.

8. BILLING FOR SERVICES ARRANGED / PROVIDED BY VA FOR VETERANS IN RECEIPT OF A UK WAR PENSION

Once authorized treatment has been provided, VA will claim reimbursement by sending claims to the DBS Vets UK's Treatment Overseas Accounts Team.

VA will forward claims for reimbursement to the DBS Vets UK on a *monthly* basis. Claims will state the war pensioner or AFCS member's name, national insurance number, date of service, requested reimbursement amount and CPT code of services performed. The VA claim will include any wire transfer fees that will be reimbursed by DBS Vets UK. The fees range from \$15 United States Dollars (USD) to \$40 USD, and is the rate determined by the accepting financial institution.

Reimbursement and billing amounts will be based on cost-based rates, as identified in Title 38 CFR part 17.102.

Reimbursement or denials of claims will be returned to VA within 20 business days from receipt of the claim reimbursement request along with an explanation of charges.

Any discrepancies identified by the DBS Vets UK must be brought to the attention of the VA within 10 business days. Claims that have been rejected pending additional review or authorization by DBS Vets UK will be reported monthly to VA until the claims have been resolved. Claim reimbursement amounts will include any applicable bank, currency exchange, or processing fees associated with payment.

VA will be given opportunity to request the DBS Vets UK reconsider denials within 60 days of notice of a rejected invoice. The reconsideration will include any additional documentation which supports the claim. DBS Vets UK will review supplied information and provide a response to the VA of the reconsideration decision within 60 days from receipt of the request to reconsider. Disputes between the parties will be resolved in accordance with paragraph 9 below.

VA shall seek reimbursement from the war pensioner or AFCS member if a claim or any portion thereof is denied by DBS Vets UK.

9. DISPUTES

It is the understanding of both Parties that, to the extent possible, disputes under this MOU should be resolved at the lowest possible level. All disputes will be submitted in writing to the other party.

Final disposition of the dispute lies within the authority of the Parties signatory's or their designee, to this MOU. If no resolution can be reached, the Parties may seek the service of a third party neutral to resolve the dispute with each side to bear an equal share of any costs.

10. VALIDITY PERIOD

This MOU becomes effective upon the latest signatory date below for a period not to exceed five years. Either party may cancel this MOU upon 60 days written notice.



Rt Hon Mark Lancaster MP
Minister of State for Defence Personnel,
and Veterans

Date: 21 July 2016

David J. Shulkin, M.D.
Under Secretary for Health

Date: _____

Appendix 1

Defence Business Services Vets UKs Statutory Authority

Article 21 of the Service Pensions Order 2006

Medical expenses

21.—(1) Subject to paragraph (2), any necessary expenses in respect of—

(a) the medical, surgical or rehabilitative treatment of a member of the armed forces; or

(b) appropriate aids and adaptations for disabled living; in both cases

(c) arising [F31]wholly or mainly] as a result of disablement due to service before 6th April 2005

may be defrayed by the Secretary of State under such conditions and up to such amounts as he may determine.

(2) No expenses shall be defrayed under paragraph (1) in respect of treatment, aids or adaptations provided for, otherwise than on payment of a charge by the member, under legislation of the United Kingdom.

Annotations:

F31 Words in art. 21(1)(c) inserted (21.6.2006) by The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions (Amendment) (No. 2) Order 2006 (S.I. 2006/1455), arts. 1(3), 4

The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006

Article 28 of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011.

Medical expenses

28.—(1) Any necessary expenses of a former member may be paid for wholly or in part by the Secretary of State if the conditions specified in paragraph (2) are satisfied.

(2) Subject to paragraph (5) the conditions referred to in paragraph (1) are that the former member

(a) has been awarded injury benefit where one or more of the injuries sustained gave rise to an entitlement to a descriptor within tariff levels 1 to 8;

(b) became ordinarily resident outside the United Kingdom within the period of 1 year starting with the day service ends; and

(c) is ordinarily resident outside the United Kingdom when the expenses are incurred.

(3) The necessary expenses referred to paragraph (1) include, but are not limited to—

(a) medical, surgical or rehabilitative treatment;

(b) professional nursing care;

(c) appropriate medical aids and appliances; and

(d) any expenses which the Secretary of State considers are incidental to the expenses specified in subparagraphs (a) to (c).

(4) **F36**

(5) Where a former member is physically or mentally incapable of making arrangements to move outside the United Kingdom for some or all of the period specified in paragraph (2)(b), that period is to be extended for such further period, as in all the circumstances of the case, the Secretary of State considers reasonable.

Annotations:

F36 Art. 28(4) omitted (21.7.2012) by virtue of The Armed Forces and Reserve Forces (Compensation Scheme) (Amendment) Order 2012 (S.I. 2012/1573), arts. 1(1), 4 (with art. 8)

The Armed Forces and Reserve Forces (Compensation Scheme) Order 2011

Appendix 2

Department of Veteran Affairs Statutory and Regulatory Authority

38 U.S.C. 109; 38 U.S.C. 111

38 CFR parts 17.41(e), 17.42, 17.43(a) (3), 17.94, 17.102(d), 17.102(h), 70.10(a) (10)

Definition of benefits for discharged members of allied forces

38 U.S.C. § 109 defines benefits for discharged members of allied forces as:

(a)(1) In consideration of reciprocal services extended to the United States, the Secretary, upon request of the proper officials of the government of any nation allied or associated with the United States in World War I (except any nation which was an enemy of the United States during World War II), or in World War II, may furnish to discharged members of the armed forces of such government, under MOUs requiring reimbursement in cash of expenses so incurred, at such rates and under such regulations as the Secretary may prescribe, medical, surgical, and dental treatment, hospital care, transportation and travelling expenses, prosthetic appliances, education, training, or similar benefits authorized by the laws of such nation for its veterans, and services required in extending such benefits. Hospitalization in a Department facility will not be afforded under this section, except in emergencies, unless there are available beds surplus to the needs of veterans of this country. The Secretary may also pay the court costs and other expenses incident to the proceedings taken for the commitment of such discharged members who are mentally incompetent to institutions for the care or treatment of the insane.

(2) The Secretary, in carrying out the provisions of this subsection, may contract for necessary services in private, State, and other Government hospitals.

(3) All amounts received by the Department as reimbursement for such services will be credited to the current appropriation of the Department from which expenditures were made under this subsection.

(b) Persons who served in the active service in the armed forces of any government allied with the United States in World War II and who at time of entrance into such active service were citizens of the United States will, by virtue of such service, and if otherwise qualified, be entitled to the benefits of chapters 31 and 37 of this title in the same manner and to the same extent as veterans of World War II are entitled. No such benefit will be extended to any person who is not a resident of the United States at the time of filing claim, or to any person who has applied for and received the same or any similar benefit from the government in whose armed forces such person served.

(c)(1) Any person who served during World War I or World War II as a member of any armed force of the Government of Czechoslovakia or Poland and participated while so serving in armed conflict with an enemy of the United States and has been a citizen of the United States for at least ten years will, by virtue of such service, and upon satisfactory evidence thereof, be entitled to hospital and domiciliary care and medical services within the United States under chapter 17 of this title to the same extent as if such service had been performed in the Armed Forces of the United States unless such person is entitled to, or would, upon application thereof, be entitled to, payment for equivalent care and services under a program established by the foreign government concerned for persons who served in its armed forces in World War I or World War II.

(2) In order to assist the Secretary in making a determination of proper service eligibility under this subsection, each applicant for the benefits thereof will furnish an authenticated certification from the French Ministry of Defence or the British War Office as to records in either such Office which clearly indicate military service of the applicant in the Czechoslovakian or Polish armed forces and subsequent service in or with the armed forces of France or Great Britain during the period of World War I or World War II.

Authorisation for expenditure of overseas medical expenses

National Insurance number

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Surname

Other names

Description of expenditure (e.g. Consultant report, medical examination etc.)

*Input details of the approved expenditure
e.g. 10 physiotherapy treatments over the
next 6 months or medical examination*

Amount of expenditure (if known)

See below

- 1) Enter the approximate amount claimed if known, in the claimants currency e.g. US dollars
- 2) If the cost of treatment is not known enter 'not yet known'
- 3) For medical boards / consultants reports enter 'not yet known'

I hereby give authorisation to pay the above bill on behalf of Service Personnel and Veterans Agency. This authorisation entitles you to reimbursement from Service Personnel and Veterans Agency for the above expenditure.

Signature and name

 NAME

Section / room no.

Fax

Telephone

Date