**STATEMENT OF**

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**BEFORE THE**

**SUBCOMMITTEE ON MILITARY PERSONNEL**
**ARMED SERVICES COMMITTEE**
**U.S. HOUSE OF REPRESENTATIVES**

**ON**

**REMOVING BARRIERS TO TRICARE**

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Mr. Chairman and Members of the Subcommittee:

The American Legion is grateful for the opportunity to present its views regarding removing barriers to TRICARE. The American Legion values your leadership in assessing and addressing the problems and concerns facing active duty servicemembers, military retirees and dependents. The entire military community deeply appreciates the attention being paid to this crucial quality of life issue.

The American Legion is a strong advocate of quality and timely health care for all veterans. The plight of active duty servicemembers, military retirees, and dependents regarding accessibility to the Department of Defense (DoD) health care system is a serious matter that requires the immediate attention of the Congress and the Administration. The designated military health care system, TRICARE, is encountering multiple problems that require immediate solutions. The American Legion is extremely concerned how DoD will fix these problems and guarantee TRICARE's long-term success. There is a clear relationship between recruiting and retaining the force and taking care of military retirees.

This Subcommittee has already acquired a thorough understanding of these issues. The American Legion applauds the Subcommittee's recent field hearings. Such hearings provide an opportunity to hear first-hand accounts of the problems encountered by those using TRICARE as well as the problems faced by TRICARE providers, and then begin to address solutions to TRICARE access, enrollment, and

expansion problems. The major thrust of this testimony today is to advocate expanded cooperation and use of the Department of Veterans Affairs' (VA) - Veterans Health Administration's (VHA) medical care facilities and services. Another key player in this issue is the Department of Health and Human Services (HHS), because of the large population of military retirees and dependents that are Medicare-eligible. The American Legion's recommendations to improve TRICARE are innovative and require greater DoD interface and integration with VA and HHS.

From The American Legion's perspective, TRICARE is failing to meet the expectations in three specific areas: accessibility to care, complicated claims processing, and delay in claims payment. As requested, The American Legion will only address one aspect, accessibility to care, since the other two are internal TRICARE problems.

## Who Should Have Access?

At one time, DoD military treatment facilities could handle the health care needs of the military community: active duty personnel, military retirees, and dependents. This care was free and access was reasonable. Active duty personnel always had top priority to care, but military retirees and dependents could rely on the system to meet their health care needs. The practice of treating military retirees and dependents became so commonplace that it came to be perceived as entitlement. After the Korean War, the demand for services began to exceed DoD's ability to meet the need in a timely manner and access by dependents and military retirees became more complicated.

On June 7, 1956, Congress codified the practice of providing health care to military retirees and dependents on a space available basis in Military Treatment Facilities (MTFs). However, by the 1960s, treatment of military retirees and dependents in MTFs was taken for granted to the point it became a recruitment and retention tool to encourage military careers. By the mid-60s, the increased demands for treatment by military retirees and dependents in MTFs forced DoD to begin to look for alternatives. In 1966, DoD created the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), which was the predecessor to TRICARE. CHAMPUS was a fee-for-service program that required payment of a nominal deductible by the beneficiary, with the balance paid by DoD. For many, CHAMPUS provided a means for quicker access to medical care at a minimal cost. But for others, paying for what was viewed as a benefit was unacceptable. Military retirees and dependents began to "game" the system to keep from having to use CHAMPUS. Patients began showing up in the emergency rooms with bogus symptoms in order to be treated for common ailments. Before long, DoD began facing the growing costs associated with CHAMPUS. From 1984 through 1994, the cost of CHAMPUS tripled. Even with the escalating costs of

CHAMPUS, the "benefit" of lifetime health care was published as late as 1994 in recruitment materials.

To further complicate the problem, DoD was in the midst of downsizing. Along with numerous base closures, DoD began eliminating nearly 40 percent of its MTFs. This further compounded the growing CHAMPUS costs, since many military retirees and their dependents lived in and around many of the facilities that were closed. Now they were forced to use CHAMPUS, but still believed they were entitled to "free" health care as a retirement benefit. By 1995, DoD had a new game plan for addressing military health care. Taking pages from the rapidly changing private health care industry, DoD created TRICARE with three components:

- A fee-for-service plan -- TRICARE Standard.
- A preferred-provider plan -- TRICARE Extra.
- A health maintenance organization plan -- TRICARE Prime.

TRICARE hit like a bombshell! Military retirees and their dependents discovered that "free health care for life" did not exist. Especially hard hit were those who were Medicare-eligible. Not only were they not entitled to "free health care for life," but they were also excluded from TRICARE. The entire military retirement community felt betrayed -- a broken promise! The significant abrogation of that promise has many military retirees and their families questioning why the federal government has not lived up to its end of the bargain after a lifetime of faithful service.

Mr. Chairman, The American Legion shares this concern. Almost any military veteran who served prior to 1993 will tell you the promise of "free health care for life" for 20 years or more of military service was common knowledge. Although DoD does not recognize this promise as a legal contract, The American Legion sees it as a moral and ethical obligation. This promise, along with the GI Bill educational benefits, was in all recruitment and retention campaigns. Career decisions were based on three cardinal promises: retirement pay for life based on the number of years served; free health care for life for the retiree and his or her dependents; and access to military facilities for life, to include commissaries, exchanges, and MTFs.

## How the Veterans Health Administration Can Help

The American Legion's - GI Bill of Health - proposes that the Veterans Health Administration be provided legislative authority to expand its treatment of TRICARE beneficiaries. This authority would give the military services the ability to enter into direct VA-DOD contracts for the treatment of military health care beneficiaries, and for retirees and their eligible dependents.

Congress recognized the utility of having VA play a larger role in the treatment of TRICARE beneficiaries when it passed the Veterans Millennium Health Care Act (P.L.106-117). This legislation requires VA and DOD to enter into an agreement by August 31, 2000, to reimburse VA for the cost of providing care to retired service members who are eligible for TRICARE and who are enrolled as priority 7 veterans for VA care. These veterans would not pay VA inpatient and outpatient care copayments. The program would be phased in as DOD enters into TRICARE contracts after November 30, 1999.

The American Legion believes there need to be certain incentives to encourage TRICARE eligible retirees to enroll in VA. Certainly, dependents of TRICARE beneficiaries must be included in a family health insurance plan. Individuals enrolled in TRICARE Prime must have greater inducements to enroll in VA.

*The American Legion makes the following observations on how VA can help TRICARE:*

- VA should develop attractive health plan options to induce military retirees and their eligible dependents to enroll in VHA,
- As many as one-third of all military retirees are rated service-connected disabled and have an established priority to VA care,
- VA has a significant history with DOD through sharing agreements and joint venture projects as previously noted, and it is the designated back up system to DOD during national military emergencies,
- 147 VAMCs already provide care to military retirees through 226 TRICARE contracts (VHA is a subcontractor to the TRICARE provider within certain TRICARE regions),
- VA exists in every state and in almost every community, including rural areas, with 172 medical facilities, over 600 community-based outpatient clinics, 206 Vet Centers, and affiliations with 104 university hospitals,
- VA operates an extensive milieu of both inpatient and outpatient subspecialty care, and provides an extensive array of inpatient and community-based long-term care,
- VA currently treats veterans over 65 years of age,
- VA has already demonstrated through TRICARE that it can successfully treat dependents of military retirees,
- VA has unique specialized levels of care, including rehabilitation, spinal cord injury, geriatric care, PTSD and mental health, prosthetics, traumatic brain injury, and many other specialized programs,
- VA health care is portable between 22 Veterans Integrated Service Networks (VISNs), and
- VA has a stable financial base that is subject to congressional oversight, VA offers complete access to pharmaceuticals.

## Greater Access to Care

Mr. Chairman, The American Legion believes that the key to fixing this problem, and keeping faith with America's military retirees, is to offer them real, population-based health care. Access to care in TRICARE could be improved through the expanded use of VHA medical facilities and additional VA/DoD Joint Ventures. Currently, TRICARE has 226 subcontracts with 147 VHA medical facilities. There are at least four participating VHA medical facilities in each of VA's 22 Veterans Integrated Service Networks (VISN) nationwide. In addition, there are nine successful VA/DoD Joint Ventures:

- Albuquerque, NM;
- Las Vegas, NV;
- Travis Air Force Base (northern California VA Health Care System)
- American Lake, WA;
- El Paso, TX;
- Providence, RI;
- Hampton, VA; and
- Elmendorf Air Force Base - Anchorage, Alaska
- Tripler Army Medical Center, HI.

Mr. Chairman, expanded utilization of VHA facilities and additional VA/DoD Joint Ventures would add much needed stability to TRICARE. Use of these federally owned and operated medical facilities would allow greater congressional oversight into such problem areas as accessibility, claims processing, and payment of claims. In addition, VA and DoD would have oversight into the timeliness and quality of care being provided to military servicemembers, military retirees, and dependents.

## Medicare Eligibility

Mr. Chairman, Medicare eligibility is an area of great concern to The American Legion. Qualification for treatment in a VHA medical facility is based on military service. Qualification for treatment in an MTF is also based on military service. Military service is the first criteria for treatment in either facility. Reaching the age of 65 is the primary qualification for Medicare. We see no reason a veteran should be denied use of Medicare benefits in a VA or DoD facility.

This does not make sense to The American Legion. The American Legion fully supports the concept of Medicare subvention in both VA and DoD. However, there is one area where The American Legion and HHS disagree -- "level of effort."

The Health Care Financing Administration (HCFA) believes that VA and DoD are obligated to meet an artificial level of effort. That level of effort means VA and DoD

must treat more than the current number of Medicare-eligible veterans now being treated before receiving any capitated or fee-for-service payments from HCFA. Medicare-eligibility has never been a condition for treatment in either VA or DoD medical facilities, thus no level of effort ever existed. The patients treated by VA or DoD were not provided medical care because they were Medicare-eligible. However, there were patients treated by VA and DoD that also happened to be eligible for Medicare. The American Legion believes this suggests a tremendous difference.

## Access to Pharmaceuticals for Medicare-Eligible Military Retirees

Mr. Chairman, I would now like to address another issue concerning military retirees and their dependents who are Medicare-eligible. A major problem facing Medicare-eligible Americans is the cost of pharmaceuticals, especially those taking maintenance medications. These senior citizens are often on fixed incomes and face tough monthly budgetary decisions. One decision that no senior citizen, especially a military retiree, should ever have to make is whether to buy food or purchase medication.

Currently, Medicare-eligible military retirees are entitled to use an MTF pharmacy, and in some cases, the National Mail Order Pharmacy Program, but they also have another option -- VHA pharmaceuticals. They can get their prescriptions filled provided they have completed the enrollment process. If the medication is for a service-connected disability or the veteran is over 50 percent service disabled, there is no cost. If the medication is for a nonservice-connected medical condition and the veteran is under 50 percent disabled, there is a copayment fee for each 30-day supply.

## Summary

One cardinal principle of leadership is that authority can be delegated, but responsibility can never be relinquished. The American Legion strongly believes DoD has an obligation to meet the health care needs of the entire military community. That includes active duty servicemembers, military retirees, and their dependents regardless of age or medical condition. The American Legion sees this issue as the on-going cost attributed to the maintenance of peace through deterrence.

Many are quick to point out the 1956 public law as the line of demarcation concerning DoD medical obligation to military retirees and dependents. The American Legion believes there are several other logical benchmarks for consideration, such as June 1973 (when the last group of draftees were inducted) or 1994 (when the promise of free health care for life appeared in a recruiting document) or 1995 (birth of TRICARE). Military retirees dedicated themselves, for 20 years or more to DoD and to the nation's defense. They worked for wages that were well below that of their civilian peers. They subjected themselves and their families to the numerous hardships and

sacrifices associated with military service. They lived under a unique set of rules, the Uniform Code of Military Justice, throughout their military career. The vast majority of these individuals made their career decision at a time when they believed that free health care for life for themselves and their dependents was an important element of the retirement package.

Mr. Chairman, there has been much said publicly about accepting responsibility. Outsourcing of health care services does not relieve DoD of its responsibility to military health care beneficiaries. Changing rules, breaking promises, and not keeping the faith compromises not only the credibility of DoD but, more importantly, places America's national security at risk.

**AMERICAN LEGION RECOMMENDATIONS:**

- ***Access to TRICARE should not exclude any military servicemember, military retiree, or their dependents based on age or medical condition.***
- ***Expanding access to VA and DoD medical facilities through all available means for TRICARE beneficiaries.***
- ***VA, DoD, and HHS reach a fair and equitable agreement concerning Medicare subvention that allows Medicare-eligible military retirees and their Medicare-eligible dependents to use their Medicare benefits in VA and DoD.***
- ***Military retirees and their Medicare-eligible dependents have access to VHA pharmaceuticals.***

Mr. Chairman, thank you for the opportunity to testify at today's hearing. The American Legion looks forward to working closely with Members of the Subcommittee and its staff on this and other important issues dealing with military personnel and their quality of life.