STATEMENT OF
DENISE A. WILLIAMS, ASSISTANT DIRECTOR FOR HEALTH POLICY
VETERANS AFFAIRS AND REHABILITATION COMMISSION
THE AMERICAN LEGION
BEFORE THE
SUBCOMMITTEE ON HEALTH
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
ON
INAPPROPRIATE BILLING PRACTICES OF THE VA: IDENTIFYING THE CAUSES AND EXPLORING POTENTIAL SOLUTIONS

OCTOBER 15, 2009

Mr. Chairman and members of the Subcommittee:

The American Legion appreciates the opportunity to offer our views on this very important issue.

Background

In 1986 Public Law (P.L.) 99-272, the Consolidated Omnibus Budget Reconciliation Act of 1985, gave the Department of Veterans Affairs (VA) authority to bill health insurance companies for health care provided to nonservice-connected veterans who have private health insurance. This legislation also authorized VA to collect co-payments from nonservice-connected veterans based on their income. Veterans that are service-connected at a 50 percent or higher rating are eligible for cost free care and medication for their service-connected treatment.

As an expansion to that authority, in 1990 P.L. 101-508 established the Medical Care Cost Recovery (MCCR) revolving fund. This gave VA authority to seek reimbursement from third-party payers for the cost of medical care provided to insured service-connected veterans treated for NSC conditions. The law also authorized the per diem copayment and medication copayment programs. In 1997, P.L. 105-33 established VA's current Medical Care Collections Fund (MCCF) and authorized VA to retain collections from health insurers and veterans' copayments at the local medical center/Veterans Integrated Service Network (VISN) level.

In 2006, VA implemented a pilot project which created their Consolidated Patient Account Center. This was to address all operational areas contributing to the establishment and management of patient accounts and related billing and collections processes.

The American Legion has a long history of advocating on behalf of veterans. A very notable instance where this was evident was in March 2009, when Past National Commander David Rehbein met with President Obama and learned that the Administration planned to move forward on a proposal to charge veterans with private insurance for the treatment of service-connected injuries and illnesses at VA medical facilities. Under the proposed changes, VA would bill the veterans' private insurance company for treatment of their service-connected disabilities.

After fierce opposition from The American Legion and other Veterans' Service Organizations (VSOs), the Administration dropped their plan to bill private insurance companies for treatment of service-connected medical conditions.

Discussion

In June 2004, the Government Accountability Office (GAO) released a report, "Internal Control Weaknesses Impair Third-Party Collections," which stated that VA had inadequate patient intake procedures, insufficient documentation by physicians, a shortage of qualified billing coders, and insufficient automation, all which diminished VA's Medical Care Collection Fund (MCCF) collections. GAO conducted a follow-up audit in 2008 and echoed similar findings that VA has ineffective controls over their medical center billings and collections which limit revenue from third-party insurance companies. The report also concluded that VA lacks policies, procedures and reporting mechanism for oversight of third-party billings and collections.

The Department of Veterans Affairs Office of Inspector General (VAOIG) conducted an evaluation of the MCCF first-party billings and collections practices in 2004. The report found that veterans were inappropriately billed because of inaccurate medical facility Veterans Health Information Systems and Technology Architecture (VistA). In 2007, VAOIG carried out another evaluation of ten facilities and ascertained that there were missed billing opportunities at all ten facilities due to insufficient documentation of resident supervision.

Additionally, there were cases where episodes of care were not billed due to coding staff's lack of experience and insurance companies denying payment because billing staff placed incorrect information in the system. In light of these findings, we recommend that VA implement continuing education of all coders and their supervisors. The American Legion urges VAOIG and GAO to conduct follow up evaluations on their latest reports to determine whether VA has complied with their recommendations.

Mr. Chairman, although VA has made great strides in rectifying the issues surrounding their billing and collections practices, it is apparent that there is still room for improvement. As recent as April 2009, The American Legion compiled a total of ten documented cases where VA erroneously billed service-connected veterans' private insurances for their service-connected medical care.

In one case, a veteran passed away in the Tampa VA Medical Center November 27, 2008. He was 100 percent service-connected for several conditions, and was also a military retiree enrolled in TRICARE for Life. Under the provisions of VHA Handbook 1660.06, dated May 16, 2008, the veteran's medical care was billed to TRICARE for Life. According to the Handbook since the VA cannot bill Medicaid, TRICARE for Life becomes the first payee. The Tampa VA Medical Center billed TRICARE for $1,017,019.81 and TRICARE paid $304,092.58. Again, the veteran was 100 percent service-connected and the Medical Center did have the correct information at the time they billed TRICARE.

According to the Handbook, the veteran is responsible for any and all TRICARE co-payments; in this case, the veteran was billed by TRICARE for a number of co-payments up to his catastrophic gap of $3000.00. There is no difference between this and billing private medical insurance.

In a second case, an 80 percent service-connected veteran reported that his wife's private insurance has been billed repeatedly for his treatment of service-connected illness. The veteran inquired about it through the VA Primary Care Team and was told they will continue to be billed as long as they have private insurance. The veteran explained that he was being billed for service-connected disabilities; however, the inappropriate billing continues. The American Legion is deeply concerned about this critical situation and contends VA work jointly with us to investigate these and any other cases, as well as collect pertinent records from affected veterans and take the necessary corrective measures. Additionally, we recommend that VA create a means to alert coders of service-connected conditions in their system and increase efforts and focus on monitoring accounts receivable.

In May 2009 The American Legion National Executive Committee adopted a resolution, which calls for GAO and VAOIG to conduct individual investigations into the allegations VA is billing service-connected veterans for their cost-free healthcare. In addition, the resolution urges VA to implement a third-party reimbursement and diagnostic team comprised of an individual within each VISN to review compliance and ensure veterans will not continue to be billed for their service-connected medical conditions.

Finally, we would like to take this opportunity to express our thanks to Chairman Filner for the introduction of H.R. 3365, The Medicare VA Reimbursement Act of 2009. The American Legion strongly supports this bill and would like to encourage your colleagues to follow suit. On behalf of The American Legion, I appreciate the invitation to present our views on this very important topic. This concludes my testimony.