

**NATIONAL EXECUTIVE COMMITTEE
OF
THE AMERICAN LEGION
October 16-17, 2019
Indianapolis, Indiana**

**Resolution No. 11: Abolish Premium Penalty For Delayed Enrollment In Medicare Part B
For Veterans Eligible For Medical Benefits From The Department Of Veterans Affairs
Origin: Resolution No. 38 (FL) 2019 National Convention
Submitted by: Veterans Affairs & Rehabilitation Commission**

WHEREAS, Many veterans receive satisfactory health care through the Department of Veterans Affairs (VA), and therefore have no need to incur the expense of monthly premiums for Medicare Part B and/or private health insurance; and

WHEREAS, There may come a time in the future that such veterans have a need for the services provided by Medicare Part B, whether as a result of distance from VA providers, change in eligibility for VA services, or otherwise; and

WHEREAS, Pursuant to federal law (Title 42 United States Code, section 1395r(b)), as a general rule those who are eligible for Medicare Part B may delay enrollment beyond age 65, but are subject to an unlimited premium penalty often ten percent (10%) per year for each year they forego Part B enrollment; and

WHEREAS, The Center for Medicare and Medicaid Services (CMS) of the Social Security Administration, Department of Health & Human Services has rules in place under which there are exceptions to the general rule imposing a late-enrollment penalty: one of which (Title 42, Code of Federal Regulations section 408.24(a)(9)) is that, for each year an individual "was covered under a Group Health Plan by reason of the current employment status of the individual or the individual's spouse while eligible for Part B, the penalty is waived"; and

WHEREAS, Because VA medical benefits are not provided "by reason of the current employment status" of veterans, VA benefits do not qualify as a "Group Health Plan" such as will allow veterans to avoid paying the ten percent (10%) annual penalty; and

WHEREAS, The laudable purpose for CMS penalizing those eligible for Medicare Part B who do not immediately enroll-but with an exception for those with access to employer, based group health plans, is to deal with the adverse fiscal impact of providing Medicare services to those elderly individuals whose health has deteriorated during years without health benefits; and

WHEREAS, With the support of The American Legion and other veterans groups, the VA provides a level of prevention and treatment services to eligible veterans which must be presumed to be at least comparable to those provided by commercial group health plans; now, therefore, be it

RESOLVED, By the National Executive Committee of The American Legion in regular meeting assembled in Indianapolis, Indiana, on October 16-17, 2019, That The American Legion promote appropriate legislation or administrative rulemaking action to abolish the ten percent (10%) annual premium penalty for all veterans delaying enrollment in Medicare Part B while eligible for Department of Veterans Affairs medical benefits.