NATIONAL EXECUTIVE COMMITTEE
OF
THE AMERICAN LEGION
INDIANAPOLIS, INDIANA
May 6-7, 2009

Resolution No. 27: The American Legion Policy on the Department of Veterans Affairs (VA) Billing of Private Insurance

Origin: Veterans Affairs and Rehabilitation Commission
Submitted by: Veterans Affairs and Rehabilitation Commission
(As amended)

WHEREAS, Public Law (Pub. 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; and

WHEREAS, This legislation also authorized VA to collect co-payments from nonservice-connected veterans based on income; and

WHEREAS, Veterans that are service connected at a 50 percent or higher rating are eligible for cost free care and medication for any additional nonservice-connected treatment; and

WHEREAS, VA, however, still has the option of charging a veteran's private insurance, if the veteran has such insurance, for the treatment of nonservice-connected conditions; and

WHEREAS, If a veteran has a condition believed to be service-connected (attributable to military service) that has not been evaluated by the VA, the veteran would file a claim with their local VA Regional Office for adjudication in order to assign a rating percentage; and

WHEREAS, If a veteran enrolls at the VA Medical Center, an admissions officer verifies their eligibility and the veteran is assigned to one of the VA's eight priority groups for treatment and the veteran's third-party insurance is recorded; and

WHEREAS, The treating VA physician determines what is medically indicated and if the veteran's injury or illness is service connected or nonservice-connected by assigning the proper coding of the diagnosis; and

WHEREAS, In a 2004 Government Accountability Office (GAO) Report, Internal Control Weaknesses Impair Third-Party Collections, it was reported that VA had inadequate patient intake procedures, insufficient documentation by physicians, a shortage of qualified billing coders and insufficient automation that diminished VA's Medical Care Collection Fund (MCCF) collections; and

WHEREAS, Veterans carry third-party insurance so they are able to obtain necessary health care and often times are not aware of their private insurance companies being billed for their service-connected injuries or illnesses because there are not any out-of-pocket costs to the veteran; and

WHEREAS, Veterans Affairs and Rehabilitation Division investigated and identified several instances of improper billing directly from veterans via phone calls and emails along with documentation proving their third party insurance was billed for their service-connected treatment; and

WHEREAS, This erroneous billing violates VA's mandate under Public Law 99-272 and Section 17.101 of title 38, Code of Federal Regulations that sets forth the VA medical regulations concerning "reasonable charges" for medical care or services provided or furnished by VA to a veteran; now, therefore, be it

RESOLVED, By The National Executive Committee of The American Legion in regular meeting assembled in Indianapolis, Indiana, on May 6-7, 2009, That The American Legion will continue to collect information from Department Service Officers, veterans and their family members on cases where Department of Veterans Affairs (VA) has fraudulently billed veterans for their service-connected treatment and will take corrective action as necessary; and, be it further

RESOLVED, That The American Legion recommend that the Government Accountability Office (GAO) and the VA Office of the Inspector General (OIG) conduct individual investigations into the allegations that VA is billing service-connected veterans for their cost-free healthcare; and, be it further

RESOLVED, That The American Legion and the VA act jointly to announce the investigation and process to obtain pertinent records from affected veterans and families; and, be it finally

RESOLVED, That The American Legion urge VA to implement a Third-Party Reimbursement and Diagnostic Coding Audit Team comprised of an individual within each VA Veteran Integrated Service Network (VISN) to review compliance and ensure veterans will not continue to be billed for their service-connected conditions.