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STATEMENT OF
RICHARD L. FOGEL, DIRECTOR
HUMAN RESOURCES DIVISION
BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES SENATE



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ON
THE NEED FOR LEGISLATION TO AUTHORIZE
VA RECOVERIES FROM PRIVATE HEALTH INSURANCE AND
PROPOSALS TO ESTABLISH A MEANS TEST FOR DETERMINING
VETERANS' ELIGIBILITY FOR VA HEALTH CARE

Mr. Chairman and Members of the Committee:

We are pleased to be here today to discuss our February 26, 1985, report, which recommended passage of legislation to authorize VA to recover the costs of care provided to privately insured veterans for non-service-connected medical conditions. In addition, we will discuss our May 3, 1985, report, which provided information that may be useful to the Congress and VA in projecting the potential effects of a means (income) test used to determine whether veterans with non-service-connected disabilities would be eligible for treatment in VA facilities.

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VA RECOVERIES FROM
PRIVATE HEALTH INSURANCE

Most health insurance policies will not pay for non-emergency care provided to the companies' policyholders at VA medical facilities. Such policies have exclusionary clauses which state that the insurance companies will not pay for care for which the policyholder has no obligation to pay.

VA provided about 1 million episodes of care in fiscal year 1982. About 685,000 of those episodes were provided to veterans for non-service-connected, non-psychiatric conditions. We selected a nationwide sample of veterans associated with those episodes to find out how many had private health insurance coverage. Eighty-three percent of the questionnaires were answered.

Our results showed that about 18 percent of the episodes were provided to veterans who had private health insurance. We estimate that VA could have recovered between \$98 million and \$284 million from private health insurance for those episodes if the exclusionary clauses had been removed. We believe that our estimates are conservative and that actual VA recoveries would likely be higher.

In addition to developing a reliable estimate of potential VA recoveries, we analyzed concerns raised by the insurance industry and others during this Committee's 1979 hearings on proposed recovery legislation. These concerns included

--the administrative costs VA and the insurance industry would incur,

--the effect VA recoveries would have on health insurance premiums, and

--the legality of recovery legislation.

VA administrative costs

Because VA already has procedures to identify veterans' private health insurance coverage during the admissions process, the increased VA administrative costs would result primarily from preparing and collecting the bills. These costs should be less than two percent of recoveries based on VA's historic costs for processing similar claims.

Insurers' administrative costs

Insurance companies should incur increased administrative costs of less than 6 percent of VA recoveries based on the highest level of administrative costs they incurred under federally administered health insurance programs.

Effect on health insurance premiums

At present, the burden of paying for VA medical care provided to privately insured veterans with non-service-connected medical conditions falls on the taxpayers. If VA is authorized to collect from insurance companies, some of the burden will be initially shifted to those companies. Most likely, however, the insurance companies will in turn shift the burden to policyholders through higher premiums.

In 1982, for the approximately 112 million individuals with comprehensive hospitalization insurance coverage, health

insurance benefit payments were almost \$88 billion and health insurance premiums were almost \$99 billion. We estimate that for every \$100 million in VA recoveries, premiums for each of the 112 million policyholders would have increased by about one dollar.

Legality of recovery legislation

During this Committee's 1979 hearings, the Health Insurance Association of America and the Blue Cross and Blue Shield Associations expressed concern about the legality of legislation to prohibit exclusionary clauses. Our review of case law shows that the insurance industry's rights would be adequately protected and that recovery legislation such as that proposed in 1979 would be legal. The Department of Justice also held in 1979 that such legislation would be legal. The Department reaffirmed its position this year in commenting on our report.

Public Law 96-330

The Veterans Administration Health Care Amendments of 1980 were enacted as an alternative to the recovery legislation that was proposed, but not enacted, in 1979. We believe, however, that the 1980 amendments should be viewed as a supplement, rather than an alternative, to such recovery legislation.

These amendments authorized VA to establish specific ability-to-pay criteria and to verify veterans' ability to defray the expenses of non-service-connected care under specified circumstances. VA has not yet published proposed regulations to implement the ability-to-pay provisions.

Whether veterans are covered by private health insurance would be one element in assessing their ability to pay. Although implementing the ability-to-pay provisions would likely reduce the number of veterans with insurance using the VA system, many veterans who are provided care for non-service-connected conditions would be exempt from such provisions. Without recovery legislation, VA would continue to be prevented from recovering costs of care provided to those insured veterans who (1) have service-connected disabilities but receive treatment for non-service-connected conditions, (2) receive a VA pension or are eligible for Medicaid, or (3) are 65 years of age or older.

PROPOSALS FOR A MEANS TEST

The administration's fiscal year 1986 budget proposes a comprehensive reform of eligibility for VA medical care which is to include establishing a means test to determine non-service-connected veterans' eligibility for VA medical care.

Using VA and Internal Revenue Service data, we developed information on the income levels of and cost of care provided to non-service-connected veterans who were discharged from VA hospitals during fiscal year 1981. Our analyses were intended to show how much VA could have recovered from such veterans who had incomes over specified levels in that year.

Because the decision involves a fundamental public policy matter, we have no position as to whether the Congress should enact the administration's proposed means test. Rather, our purpose was to provide information to VA and the Congress so they could assess the potential effects of such a proposal.

There are some limitations to our analyses. We did not fully assess the reliability of the VA and IRS data, such as information on the patients' length of stay, income, and family size. Also, our universe of non-service-connected veterans may contain some who did not meet our selection criteria. We believe, at the most, this number is about 16 percent of our universe. Despite these limitations, our data should be useful in projecting the extent to which veterans with non-service-connected conditions would be eligible for VA care based on the administration's recently proposed means test.

Results of our analyses

Our universe for these analyses included about 146,000 episodes of care provided during fiscal year 1981 to about 101,000 veterans. This universe included veterans who

- had no service-connected disabilities,
- were under age 65,
- were not receiving a VA pension, and
- who filed a 1981 federal tax return.

We developed three possible alternatives to determine how much of their income these veterans could have spent on their health care. We do not intend to suggest them as alternatives to the administration's proposed means test; rather, we developed them to serve as frameworks for analyzing the extent to which veterans could have afforded to pay for all or part of their care.

We applied these alternatives to both our original universe of non-service-connected veterans under age 65 as well as those 65 and over.

Let me give an example of the kind of data our analyses provided. Using the pension-based means test, we found that VA provided about 44,000 episodes of care to veterans under age 65, with no service-connected disabilities, and whose income exceeded twice the pension level. These episodes cost VA about \$163 million. Our analysis also showed that these veterans could have paid for about \$116 million of that care.

The administration's proposal would subject certain veterans both over and under age 65 who do not have service-connected disabilities to a means test when they applied for VA hospital and nursing home care. We understand that the means test will involve comparing the veteran's family size and income (including assets) to twice the current pension level. We understand that VA has found the information we provided useful in projecting the potential impact of the administration's means test proposal.

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Mr. Chairman, that concludes my prepared statement. We would be pleased to answer questions.