



**Examination of the Impact of  
Georgia's State Veterans' Homes  
Collecting Payments/Reimbursements from  
Medicaid and Medicare**

**A Study**

**To Comply with a Requirement of the Fiscal Year 2011  
Appropriation Law Approved by the 2010 General Assembly**

**January 10, 2011**

**Peter Wheeler, Commissioner  
Georgia Department of Veterans Service**

## **EXECUTIVE SUMMARY**

State veterans' homes in Georgia were initially established by the General Assembly in the mid-1950s. When the program was started, the General Assembly determined the funding for it would be through payments from the U.S. Department of Veterans Affairs (VA) (then known as the Veterans Administration) and state appropriations. As other states at that time were providing bonuses to returning veterans from World War II and the Korean War, Georgia elected to provide medical care through the state's war veterans' homes to war veterans who had a need for that support, as opposed to providing bonuses to all veterans.

During the 2010 legislative session both houses of the General Assembly asked several questions regarding the use of Medicaid and Medicare funding for increasing the income of the State Veterans' Homes operated by the Department of Veterans Service.. These questions appeared to have been asked to determine if using these funds, the benefits of which have been earned by some of the veteran patients of the homes, could be made available to maintain or not further reduce the veteran patient censuses of the homes. The end result of the legislative review of the funding for the state veterans' homes was direction to the Department of Veterans Service to *examine the impact of certifying the nursing homes for Medicaid and Medicare* reimbursements for the medical services provided to the veteran patients of the homes. A study group was formed to examine the issue and develop recommendations for the Governor and the General Assembly in response to that requirement.

Under current state law there is no authorization for the Department of Veterans Service to collect any moneys from veteran patients of state veterans' homes directly or indirectly through a third-party payer, such as Medicaid and Medicare. The homes are funded entirely through state appropriations and federal (VA) per diem payments for the veteran patients of the homes.

There are untapped VA benefits in the form of compensation, medical and pension that many veteran patients of the homes are eligible to receive or are receiving and which the department cannot collect. These VA benefits are paid directly to the veteran patients and have no pay back or collection requirements attached to them. These benefits are provided for the purpose of supporting veterans who have served their country and could be used as a

source of moneys to fund a portion of the operations of the state veterans' homes. Unlike collecting moneys through the Medicaid and Medicare programs, there are no administrative oversights, audits, inspections, billing, utilization and other requirements for state veterans' homes to collect moneys from veteran patients who are already for the most part receiving some form of benefits from the VA based on their military service.

**The study concludes collecting moneys through the Medicaid and Medicare programs is not the preferred avenue to obtain external funding for the operation of state veterans homes. The better means of doing this would be to collect a fee or co-payment from the veteran patients of the homes, most of whom could use a portion of the VA benefits they are already receiving as the source of funds. A fee or co-payment should be nominal in comparison to the primary funding sources of state appropriations and federal (VA) per diem payments.**

**The study recommends the General Assembly pass legislation to give the Department of Veterans Service authority to establish, collect and use a fee or co-payment from veteran patients of the state veterans' homes (a legislative proposal is attached to the report).**

## **INTRODUCTION AND PREFACE**

Under current Georgia law, funding for the operation of the State Veterans' Homes is obtained through federal per diem payments for the veteran patients receiving medical services in the homes and from state appropriations designated for the operation of the homes. There presently is no provision in state law for collecting from individual veteran patients for a portion of the cost of care provided to them or from any third party payer, i.e., Medicare/Medicaid, for a portion of the cost of those services.

During the 2010 legislative session both houses of the General Assembly asked several questions regarding the use of Medicaid and Medicare funding for increasing the income of the State Veterans' Homes. These questions appeared to have been asked to determine if using these funds, the benefits of which have been earned by some of the veteran patients of the homes, could be made available to maintain or not further reduce the veteran patient censuses of the homes. The end result of the legislative review of the funding for the State Veterans' Homes was direction to the Georgia Department of Veterans Service to examine the impact of collecting Medicaid and Medicare reimbursements for the medical services provided to the veteran patients of the homes.

This study looks at those impacts and makes recommendations about collecting from the Medicaid and Medicare programs for a portion of the costs of medical services provided to veteran patients who are otherwise eligible for Medicare and/or Medicaid reimbursements for these services.

## **STUDY TEAM**

| <b><u>Name</u></b>              | <b><u>Position</u></b>  | <b><u>Role</u></b> |
|---------------------------------|---|--------------------|
| Mr. Dan Holtz, FACHE            | Assistant Commissioner, Administration, Health & Memorials, Georgia Department of Veterans Service  | Team Leader        |
| Mr. Jim Blaylock                | Member, Georgia Veterans Service Board and VA Southeast Network Director of Prosthetics   | Team Member        |
| Mr. Tom Cook                    | Assistant Commissioner, Field Operations and Claims, Georgia Department of Veterans Service   | Team Member        |
| Mr. Ernie Simons                | Director, Health & Memorials Division, Georgia Department of Veterans Service   | Team Member        |
| Mr. Charles Esposito, FACHE     | Executive Director, Georgia War Veterans Nursing Home (Augusta) of the Georgia Department of Veterans Service, Operated by the Medical College of Georgia                   | Team Member        |
| Mr. Rick Graham                 | Director, Operations Division, Georgia Department of Veterans Service   | Team Member        |
| Ms Lindsay Erickson             | Senior Policy Analyst, Governor's Office of Planning and Budget, State of Georgia   | Team Member        |
| Mr. Melvin Moses                | Vice President, UHS-Pruitt Corporation, Representing the Contractor Operator of the Georgia War Veterans Home (Milledgeville) of the Georgia Department of Veterans Service | Team Member        |
| COL Chuck Davis, MSC, USA (Ret) | Stakeholder and former community nursing home administrator   | Team Member        |
| Mr. Dan Cravey                  | Stakeholder and State Service Officer of the Georgia Department of the American Legion  | Team Member        |
| Mr. Joel Willis                 | Stakeholder and State Service Officer of the Georgia Department of the Veterans of Foreign Wars   | Team Member        |

## **BACKGROUND**

State veterans' homes in Georgia were initially established by the General Assembly in the mid-1950s with the first one at Milledgeville being created out of the then Milledgeville State Hospital (now know as the Central State Hospital). The second home was established in Augusta as part of the Medical College of Georgia. When the program was started, the General Assembly determined the funding for it would be through payments from the U.S. Department of Veterans Affairs (then known as the Veterans Administration) and state appropriations. As other states at that time were providing bonuses to returning veterans from World War II and the Korean War, Georgia elected to provide medical care through the state's war veterans' homes to war veterans who had a need for that support, as opposed to providing bonuses to all veterans.

In sections 48.3 and 48.4 of the Conference Committee Report for the FY 2011 State Budget for the Department of Veterans Service the General Assembly placed the following requirement:

***The Department [of Veterans Service] shall examine the impact of certifying the nursing homes for Medicaid and Medicare.***

This requirement in the FY 2011 Budget caused the Department to undertake a study to examine the impact of using the Medicaid and Medicare programs as funding sources for paying a portion of the operating costs for Georgia's two State Veterans Homes.

A study group of 11 members was formed to examine the issue and develop recommendations for the Governor and the General Assembly in response to that requirement. The study group met several times to receive briefings on the Medicaid and Medicare programs, their operations and how they would fit into the fiscal structure for the funding of Georgia's State Veterans Homes. The study group focused on several factors presented in the *Factors Bearing on the Issue* section of this report, determined relevant facts, analyzed them and arrived at several conclusions in order to make recommendations.

The remainder of this report outlines and discusses those issues in detail and the impact the study group believes they have on the funding and operations at the State Veterans Homes.

## **FACTORS BEARING ON THE ISSUE**

The following are factors bearing on the issue of whether State veterans' homes (SVH) in Georgia should be certified to claim and receive payments from the Medicaid and Medicare programs of the federal and state governments.

- **STATE VETERANS' HOMES IN GEORGIA ARE GOVERNED BY STATE LAW AT TITLE 38, O.C.G.A.**
  - State law governs the criteria for admission to the homes, which is limited to veterans who:
    - [1] Must have served in the armed forces of the US during wartime as determined by the federal government or by state legislation; and
    - [2] Must have been a resident of the State of Georgia for the five years immediately prior to admission to a SVH.
  - According to federal law governing the SVH program for the VA and the attendant regulations, the states determine the eligibility requirements for admission.
- **MEDICARE IS A FEDERAL HEALTHCARE PROGRAM FOCUSING ON OLDER AMERICANS WHO ARE 65 YEARS OF AGE OR OLDER.**
  - Title 18 of the federal Social Security Act establishes the Medicare program. Generally, the program provides inpatient hospital care (Part A), outpatient health care (Part B) and pharmaceuticals/medications related to outpatient care (Part D).
  - In addition the Medicare program provides a skilled nursing care benefit of up to 100 days for those Medicare eligible persons who have had a "qualifying hospitalization" event of at least three consecutive (3) inpatient days in a hospital. This benefit is available to better control utilization of medical services in the nation and to hold down or reduce costs associated with the Medicare program.
    - Medicare pays 100% of the cost of care for the first 20 days and 80% of cost of care for the remaining 80 days.
    - The individual patient is responsible to pay the remaining 20% from their own resources.

- In most cases the post-hospitalization skilled nursing care paid by Medicare is completed in less than the 100 days allowed.
  - Whenever the post hospitalization is completed, Medicare stops paying for the skilled nursing care. For Medicare to become involved again in payment for skilled nursing care there must be another qualifying hospitalization of at least three days; whereupon, the process starts again.
  - For 70% Service Connected Disabled veteran patients of State Veterans Homes, Medicare payments may not be used to offset state appropriated funding because the VA's per diem payment of total cost of care is, by federal law, considered *payment in full* for the care provided to these individuals.
- **MEDICAID IS A FEDERAL/STATE HEALTHCARE PROGRAM FOCUSING ON LOW INCOME AMERICANS WHO MEET CERTAIN FINANCIAL THRESHOLDS.**
  - The Medicaid program, Title 19 of the federal Social Security Act, is a joint federal and state program to provide healthcare services (hospitalizations, outpatient, pharmacy, nursing home care, etc.) to those individuals whose annual gross income is less than \$22,000.
  - Medicaid will pay for nursing home care for eligible beneficiaries.
    - Where the Medicare program only pays for skilled nursing care related to qualifying hospitalizations, the Medicaid program pays for nursing home care for low income individuals who are financially eligible.
    - Where the use of Medicare funding and payments is episodic, Medicaid payments are more ongoing and may be used for long periods.
  - Not all states and respective State veterans' homes use Medicaid payments as a source of revenue for covering the operations of these homes.
  - Under federal law for 70% Service Connected Disabled veteran patients of State Veterans Homes, Medicaid payments may not be used to offset state appropriated funding because the VA's per diem payment of total cost of care is considered *payment in full* for the care provided to these individuals.
- **IN BOTH TITLES 18 AND 19 OF THE SOCIAL SECURITY ACT THERE ARE REQUIREMENTS FOR NON-DISCRIMINATION AGAINST MEDICAID AND MEDICARE ELIGIBLE PATIENTS BY NURSING HOMES PARTICIPATING IN THE MEDICAID AND MEDICARE PROGRAMS.**

- Some states have elected to not participate in the Medicaid and Medicare programs to avoid the possibility of being required by the federal government to open up admissions to their state veterans' homes to all persons otherwise eligible for the Medicaid and Medicare programs. However, that concern/issue has not yet been tested.
- On the other hand, other states have elected to participate in these programs to get the revenues coming from them and are not concerned about the possibility of the federal government requiring admissions be opened at state veterans' homes to all Medicaid and Medicare eligible beneficiaries.
- **TO PARTICIPATE IN THE MEDICAID PROGRAM A HEALTHCARE PROVIDER, E.G., STATE VETERANS HOME, MUST ALSO BE CERTIFIED TO PARTICIPATE IN THE MEDICARE PROGRAM.**
- **THE CURRENT ECONOMIC SITUATION AFFECTING OUR NATION AND THE STATE OF GEORGIA IS IMPACTING THE ABILITY OF THE STATE OF GEORGIA TO CONTINUE TO BE THE SOLE FUNDING SOURCE IN ADDITION TO THE VA PER DIEM PAYMENTS FOR THE OPERATION OF STATE VETERANS HOMES.**
  - State tax revenues have dropped significantly over the past three years causing major concerns about the continued funding for State Veterans Homes.
  - At the writing of this report, the tax revenues for the State of Georgia have increased in June/July/August/September 2010 over the same period of time in 2009.
    - Whether this is part of a trend toward improved revenues or not is difficult to tell at this juncture.
    - **Even if it is the beginning of a positive trend, perhaps it is time to consider changing how State veterans' homes in Georgia are funded.**
- **CONSISTENT WITH THE REDUCTION IN THE STATE OF GEORGIA AND DEPARTMENT OF VETERANS SERVICE BUDGETS, THE CENSUSES OF THE TWO STATE VETERANS' HOMES HAS BEEN REDUCED SIGNIFICANTLY, DURING THE PERIOD 2009 – 2011.**

**Table – 1. Skilled Nursing Veteran Patients Daily Census at Georgia’s State Veterans’ Homes**

| <b>FYs</b>    | <b>Augusta</b> | <b>Milledgeville</b> | <b>Total</b> | <b>Total Difference</b> | <b>Remarks</b>   |
|---------------|----------------|----------------------|--------------|-------------------------|--|
| <b>2008</b>   | 185            | 322                  | 507          |                         | Baseline.  |
| <b>2009</b>   | 170            | 317                  | 487          | (20)                    | Augusta census reduced due to construction and budget reduction. Milledgeville census reduced due to budget reduction. |
| <b>2010</b>   | 165            | 280                  | 445          | (42)                    | Census reductions due to budget reductions at the homes.   |
| <b>2011 *</b> | 159            | 220                  | 379          | (66)                    | Census reductions due to budget reductions and admissions freezes at the homes.  |

\* Projected

- **LEGAL AUTHORITY IS NEEDED TO COLLECT FOR MEDICAL SERVICES PROVIDED AT STATE VETERANS HOMES.**
  - Currently, there is no authority in state law for the Department of Veterans Service or a State Veterans Home to collect moneys from veteran patients of State Veterans Homes.
    - Based on two legal opinions of the Law Department (Attorney General Opinion 79-5 and Attorney General Opinion 80-7), *Administrative agencies have only the powers that are granted to them by law, expressly or by necessary implication.*
    - Thus, the lack of legal authority to collect moneys directly or indirectly from veteran patients prohibits the collection of such moneys.
  - If the Department of Veterans Service or the State veterans’ homes are to collect moneys/payments from the Medicare or Medicaid programs, legislation would be required to authorize them to do so.
- **CONTINUED PROJECTED BUDGET REDUCTIONS FOR STATE GOVERNMENT AND SPECIFICALLY THE DEPARTMENT OF VETERANS SERVICE MAY NECESSITATE CONSIDERATION OF COLLECTING SOME FORM OF FEE OR CO-PAYMENT FROM VETERAN PATIENTS OF STATE VETERANS HOMES.**

- The budget guidance from the Governor’s Office of Planning and Budget for the Department’s FY 2012 Budget Request directed submission of budget plans for 6.0%, 8.0% and 10.0% reduction levels.
- Based on actual expenditures for FY 2010 which included reduced spending for the Department of Veterans Service in the 8.0% range, the Department determined it could continue operations into FY 2011 with reductions in the 4.0%, 6.0% and 8.0% levels; however, for anything in excess of 8.0% the continued operation of the State veterans’ homes would be jeopardized and **additional funding from another source would be needed to maintain and sustain the continued viability of the two State veterans’ homes in Augusta and Milledgeville.**

**Table – 2. Skilled Nursing Budget Reductions at Georgia’s State Veterans’ Homes (State Funds)**

| <b>FYs</b>    | <b>Augusta</b> | <b>Milledgeville</b> | <b>Total</b> | <b>Total Reduction</b> | <b>Remarks</b>         |
|---------------|----------------|----------------------|--------------|------------------------|------------------------|
| <b>2008</b>   | \$5,960,242    | \$11,363,230         | \$17,323,472 | \$0                    | Baseline.              |
| <b>2009</b>   | \$5,594,349    | \$9,862,748          | \$15,457,097 | \$(1,866,375)          | Actual FY Expenditures |
| <b>2010</b>   | \$4,997,505    | \$7,442,156          | \$12,439,661 | \$(4,883,811)          | Actual FY Expenditures |
| <b>2011 *</b> | \$5,275,228    | \$8,428,621          | \$13,703,849 | \$(3,619,623)          | Projected              |

\* Assumes a 4.0% withhold/reduction. Reductions at the 6.0%, 8.0% or 10.0% levels will generate a reduction level up to \$2,111,070. See Table – 1, for impact on daily census.

- Accordingly, the Commissioner of the Department of Veterans Service has *reluctantly recommended* to the Governor’s Office of Planning and Budget, if the budget reduction to be submitted to the General Assembly for the Department is greater than 8.0%, legislation also be submitted to the General Assembly to authorize the Commissioner in concert with the Veterans Service Board to establish a fee or co-payment to be paid by the veteran patients of the two State Veterans Homes.
- **COLLECTION OF MONEYS FROM THE MEDICAID PROGRAM WOULD SUBJECT THE VETERAN PATIENTS AND/OR THEIR FAMILIES ELIGIBLE FOR PARTICIPATION IN THE MEDICAID PROGRAM TO THE ESTATE RECOVERY PROGRAM.**

- The estate recovery program is a federally mandated program to offset the costs of the Medicaid program (Title 19). Veteran patients in State veterans' homes are not subject to this recovery provision because Medicaid is not a payer for any of the medical services being provided to them.
- This **would have a negative impact on the veteran patients**, and especially their families, after the veteran patients no longer reside at a State Veterans Home, due to death or discharge.
- **MEDICARE AND MEDICAID PAYMENT LAG TIMES COULD PRESENT CASH FLOW ISSUES.**
  - Historically, the Medicaid and Medicare programs have not been prompt payers. In addition there are ongoing issues related to the amount of the payments from these programs being too low and not covering actual costs of providing medical services to eligible beneficiaries.
  - Currently, the payments from the State of Georgia to the state veterans' homes are usually made within 7-14 days of receipt of the state veterans home operator's invoice (Milledgeville) or are paid at the beginning of each month for the home in Augusta (1/12<sup>th</sup> of the annual state appropriation).
  - The payments to the State veterans' homes by the VA are routed to the Department and paid out to the homes within 2-3 days of receipt of the payment into the Department's bank account.
  - To the extent Medicaid and Medicare would be involved in the payments equation, that portion of the total expected payment for the care provided in any month would have to wait for those moneys to be received by the Department of Veterans Service and then paid out to the state veterans' homes.
  - That delay will put a strain on the cash flow for the homes to the extent the payments from Medicare or Medicaid was delayed.
    - The homes would have to manage the state appropriations in a way to allow for a cushion to cover expenses that need to be paid as the SVHs wait for payments to come from the Medicaid and Medicare programs.
    - It would be a cash flow management situation and the problem with making it happen would seem to be the legality of setting up some

form of fund that could cross-over state fiscal years and not expire on the last day of the fiscal year.

- That would require some state legislation to make it happen.
- A similar situation will occur if the department charges a fee or copayment for veteran patients. The legislation the department has have proposed addresses that possibility, so that funds collected and not expended in the latter part of the fiscal year do not expire and have to be turned over to the state treasury.
- **SHOULD THE PAYMENTS BE MADE TO THE DEPARTMENT OF VETERANS SERVICE OR DIRECTLY TO THE STATE VETERANS HOMES?**
  - Different states around the nation handle this in different ways. Some are paid through the state agency having oversight and others have the payments made directly to the State Veterans Homes.
  - From an accounting standpoint having the payments made through the Department of Veterans Service would provide immediate access to know how much money is received throughout the fiscal years. This would enhance accountability and budgeting for each fiscal year.
- **COMPLEXITY OF ESTABLISHING HOMES TO ACCEPT MEDICARE AND MEDICAID.**
  - The entity applying for certification as a Medicaid provider must first apply for certification as a Medicare provider.
  - Once Medicare certification is approved, then the entity may apply for certification as a Medicaid provider, which completes the process.
  - It takes approximately 12 months from the time an application is received by the Centers for Medicaid and Medicare Services (CMS) for a State Veterans Home to obtain approval from them to participate in these programs.
- **ADDITIONAL REGULATORY INSPECTIONS OF STATE VETERANS' HOMES PARTICIPATING IN THE MEDICAID AND MEDICARE PROGRAMS.**
  - Currently, State veterans' homes in Georgia are subject to at least two annual regulatory inspections.
  - The Office of Regulatory Services of the Georgia Department of Community Health surveys these homes for compliance with state laws and regulations.

- The U.S. Department of Veterans Affairs (VA) surveys these homes for compliance with VA standards and compliance with federal regulations.
- In addition both homes are subject to triennial surveys from the Joint Commission on Accreditation of Healthcare Organizations (JCAHO).
  
- If Medicaid and Medicare are added to the payment mix, these homes will be subject to further annual survey requirements that largely mirror the requirements of the VA and the JCAHO. This would place an added burden on these homes each year.
  
- **ADDITIONAL FINANCIAL AUDITS AND REPAYMENT DEMANDS.**
  - The Medicaid and Medicare programs conduct periodic audits of the medical records of the patients receiving medical services.
  - Because of the way these programs pay for these medical services there is the potential for auditors to take exception with the payments made to the homes and demand repayments of all or portions of them.
  - Essentially, there is no immediate appeal of these demands, as the recoveries are taken out through adjustments to future payments.
  - If an appeal is made and approved, then the moneys would be repaid to the home; however, that is a prolonged process and in the meantime the funds owed to the State veterans' homes are gone.
  
- **NET FINANCIAL IMPACT.**
  - There will be costs associated with administration of being a certified Medicaid and Medicare provider at State Veterans Homes.
  - Presently, neither of the homes have an accounts receivable function because the homes currently do not collect directly from veteran patients or from third parties on the behalf of veteran patients.
  - Billings for the Medicaid program would be made on a weekly basis.
  - The homes are collecting and assessing the health/medical status of each of the veteran patients in accordance with VA standards.
    - However, the intensity of these efforts has not been at the level expected if the homes begin collecting from the Medicaid and Medicare programs.

- These utilization review functions, while ensuring the veteran patients are properly placed for medical services and continuing to need skilled nursing or nursing home care, do not directly impact the amount of moneys claimed to and received from the payer; all that would change under Medicare and Medicaid.
    - An annual patient assessment must be submitted to the Centers for Medicare and Medicaid Services for review and approval.
    - The patient assessments must be certified by the physician medical director of each home, or by a physician designated by the physician medical director.
  - Thus, there would be some sort of offsetting cost associated with the likely increase in revenue to the Department of Veterans Service and the State Veterans Homes. It is undetermined if the Medicaid and Medicare moneys will be enough to offset all of the additional efforts and costs to collect them?
- **MEDICARE BILLINGS ARE SUBMITTED FOR PAYMENT ON A MONTHLY CYCLE.**
  - Billings are based on *Resource Utilization Groupings (RUG)* that are similar to but not exactly the same as Diagnosis Related Groups (DRG) used by hospitals.
  - Billings are submitted on a monthly cycle and must include all chargeable services to substantiate the RUG score.
  - In some cases there are crossovers between the Medicaid and Medicare programs where an individual veteran patient would be eligible for participation in both programs. This situation creates a unique billing situation that is not present in situations where the individual is participating in only one or the other program.
- **IMPACT ON THE TEACHING MISSION IN GERIATRIC MEDICINE OF THE GEORGIA WAR VETERANS NURSING HOME IN AUGUSTA RELATED TO THE MEDICAL COLLEGE OF GEORGIA.**
  - The teaching mission of the Georgia War Veterans Nursing Home in Augusta is a unique mission in the realm of State veterans' homes within the VA healthcare system – **it is the only State Veterans Home in the nation with this mission.**

- The current payment structure (state appropriations and VA per diem payments) provides stability and known fiscal expectations and enhances the teaching environment of this nursing home within the Medical College of Georgia educational laboratory settings.
- Placing Medicaid and Medicare payments into this equation could generate fiscal uncertainties related to the possible delayed payments and negative impacts on cash flows for this home. The Medical College of Georgia is aware of these possibilities.
- **IF IMPLEMENTED, COLLECTING MEDICAID PAYMENTS FROM ELIGIBLE VETERANS WOULD MEAN ONLY THE LOW INCOME VETERANS WOULD BE IMPACTED.**
  - Only the low income veteran patients would be further negatively impacted by participating in the Medicaid program.
    - Their families would be impacted through the estate recovery program.
    - Other veteran patients who are not eligible for the Medicaid program would not be impacted because they are over income and would not be subject to the estate recovery aspects of the Medicaid program.
  - Thus, the low income veterans would in effect pay a “tax” for being in that classification. This does not appear to be an equitable solution to the fiscal issues.
- **IF THE STATE VETERANS’ HOMES IN GEORGIA BEGIN PARTICIPATION IN THE MEDICAID AND MEDICARE PROGRAMS, SHOULD THE STATE VETERANS’ HOMES BE OPENED UP TO ALL VETERANS IN GEORGIA, NOT JUST WAR VETERANS?**
  - Currently, admission to the State veterans’ homes in Georgia is limited to war veterans in Georgia who have resided in the state for at least five (5) years immediately prior to admission to a home.
  - In several other states their homes are open to all veterans, regardless of when they served (peacetime or wartime) on active duty in our nation’s armed services. However, their homes’ missions are different from the mission of the homes in Georgia.
  - The participation of the State veterans’ homes in the Medicaid and Medicare programs does not necessarily drive a change in the requirement for admission to Georgia’s State veterans’ homes that are currently restricted to war veterans.

- Participation of the State veterans' homes in the Medicaid and Medicare programs only indicates the war veterans who are veteran patients in the homes are either older persons or persons of low income who would therefore be eligible for coverage under one or both of these programs.
- **CURRENT FEDERAL LAW PROVIDES THE VA'S PAYMENTS FOR MEDICAL SERVICES PROVIDED TO VETERAN PATIENTS IN STATE VETERANS' HOMES FOR 70% SERVICE CONNECTED DISABLED VETERAN PATIENTS CONSTITUTES "FULL PAYMENT" FOR THESE MEDICAL SERVICES.**
  - Accordingly, state appropriations do not apply to the costs of care for these veteran patients.
  - Medicare and Medicaid will not pay for any of the medical services provided to these 70% Service Connected veteran patients, since under current federal law the VA's payment is *full payment*.
  - The total cost of care is the amount the VA will currently pay to the State veterans' homes for the medical services provided to these 70% Service Connected disabled veteran patients.
    - It is the cost of care provided to all veteran patients in a State Veterans Home as determined by the home each month, or the contracted total per diem amount agreed to through a bid process or negotiations for annual contract renewals (maximum of 4 for a 5 year contract life).
    - Under the current federal law the VA's payment for these veteran patients does not focus on the total cost of care directly related to these patients, but used the overall total cost of care as a proxy for what the federal government will pay for these veteran patients.
    - There is an effort underway by the National Association of State veterans' homes and the National Association of State Directors of Veterans Affairs to get the federal law changed to recognize the higher cost of care associated with these 70% Service Connected disabled veteran patients.
- **ANY MEDICAID AND MEDICARE PAYMENTS RECEIVED FROM THE THIRD PARTY PAYER WILL BE AN OFFSET TO STATE APPROPRIATIONS TO THE EXTENT THE STATE APPROPRIATIONS, VA PER DIEM PAYMENTS AND MEDICAID AND MEDICARE PAYMENTS CONSTITUTE PORTIONS OF THE TOTAL COST OF CARE/TOTAL PER DIEM**

**PAYMENTS RELATED TO THE STATE VETERANS HOMES. SOME ISSUES TO CONSIDER**

**INCLUDE:**

- What will be the impact on the fiscal operations of the State Veterans Homes, particularly as relates to slow payments, disputed payments, etc.?
- If Medicaid and Medicare payments are disputed and the dispute is adjudicated against the State Veterans Home, will there be an offsetting payment from the state appropriations to cover the costs of care provided?
- If a fee or co-payment system were to be established by the State of Georgia to be paid by the veteran patients, would the amount of the fee or co-payment offset by a Medicare or Medicaid payment that is in dispute or not approved through an appeal then be the responsibility of the individual veteran patient to pay?
- Would the fee or co-payment associated with the Medicare program be the responsibility of the veteran patient, as is the case for regular Medicare patients in community nursing homes?
- **CAN GEORGIA VETERANS WITHSTAND THE CULTURAL CHANGE ASSOCIATED WITH COLLECTING FROM VETERAN PATIENTS OR THIRD PARTIES ON BEHALF OF VETERAN PATIENTS?**
  - Georgia's veterans are very accustomed to not having to pay for nursing home care in State Veterans Homes. This process was set up at the time the homes were established in the 1950s and 1960s.
  - There may be a backlash from Georgia's veterans about diminution of benefits, balancing the budget on the backs of Georgia's heroes, estate recovery on Medicaid, increased pressure from state veterans' service organizations (American Legion, VFW, MOAA), etc.
  - Implementing some form of collection directly from veteran patients or indirectly through Medicaid and Medicare may be perceived by some veterans as a form of "tax increase," or a charge against an earned veterans' compensation or pension.
- **WHAT WILL THE BEHAVIOR OF GEORGIA'S VETERANS BE IF THEY HAVE TO DIRECTLY OR INDIRECTLY PAY FOR A PORTION OF THEIR MEDICAL SERVICES AT STATE VETERANS HOMES?**

- Will veterans elect to receive nursing home services from nearby community nursing homes, rather than relocate to Augusta or Milledgeville?
- Will the census at these homes drop because the costs to the veterans would now be essentially the same in both venues?
- **MEDICARE ONLY PAYS FOR 100 DAYS OF SKILLED NURSING CARE RELATED TO ANY THREE DAY EPISODE OF HOSPITALIZATION.**
  - In order to receive Medicare payments, there must be a consecutive three day hospitalization for the veteran.
  - Medicare only pays 100% of the nursing home care costs for the first 20 days and 80% after that. Once the 100 days are reached, the Medicare payments end. Then there must be a subsequent hospitalization event to start the process over again.
- **MANY VETERAN PATIENTS OF STATE VETERANS' HOMES ALREADY RECEIVE SOME FORM OF COMPENSATION AND/OR PENSION BENEFITS FROM THE VA; HOWEVER, THE STATE OF GEORGIA AND THE DEPARTMENT OF VETERANS SERVICE (DVS) CANNOT COLLECT THEM.**
  - Many veteran patients have already been approved for some form of VA compensation and/or pension related to their military service.
  - Some of these veteran patients may have already been approved to receive the cash Aid and Attendance (A&A) benefit related to medical issues they have. This benefit, which is income related and varies due to current income status, is designed to aid the veteran in covering medical expenses and includes expenses associated with nursing home care.
  - When veterans are admitted to the state veterans' homes, they all receive a counseling appointment with the local DVS field service office in order to assist them in applying for the Aid and Attendance benefit and any other VA benefits to which they may have earned from their military service.
    - Because admission to the nursing home is considered a qualifying event to receive A&A, the field service office assists the veteran patient in applying for this benefit.
    - Depending on the income of the individual veteran, the VA may award payment of cash A&A or may determine the veteran is eligible for the

A&A benefit, but the benefit is not payable because of the income status of the individual veteran.

- Currently, there is no provision in law for the State of Georgia or the DVS to collect any of the A&A benefit or any other form of VA compensation and pension. Therefore, the individual veteran patient is able to collect and keep any and all VA financial benefits, to include A&A.

- **TO THE EXTENT MEDICAID AND MEDICARE FUNDING WOULD BE USED, THERE WOULD BE A LIKELY OFFSET TO THE AMOUNT OF THE STATE APPROPRIATION FOR THE OPERATION OF THE STATE VETERANS HOMES.**

- Legislators would look at the addition of Medicaid and Medicare moneys as a way to reduce the state appropriation to the support of these homes.
- Legislators would look at the inclusion of moneys from these programs as a way to save the state moneys

## **FINDINGS**

The following findings were determined during the study of whether to have the State veterans' homes in Georgia participate in the Medicaid and Medicare programs.

- **MEDICAID ELIGIBLE VETERAN PATIENTS IN STATE VETERANS HOMES.** Using the Medicaid thresholds for individuals who are in nursing homes to be eligible for Medicaid and based on the information available to the Department of Veterans Service, currently 195 out of 485 veteran patients (before census at the two homes was reduced due to budget reductions of FYs 2009, 2010 and 2011) of the two State veterans' homes (Augusta-68 out of 170; Milledgeville-127 out of 315) would likely be eligible for Medicaid benefits. (Actual numbers cannot be determined until applications are submitted and approved.)
- **MEDICAID BENEFITS WOULD BE PAYABLE ON AN ONGOING BASIS FOR THOSE VETERAN PATIENTS ELIGIBLE FOR PARTICIPATION IN THE MEDICAID PROGRAM.**
  - The nursing home care benefit under the Medicaid program pays the Medicaid payment for the medical services provided to the veteran patients eligible for Medicaid program participation.
  - The Medicaid program will pay for those medical services to Medicaid eligible veteran patients for as long as they are in the nursing home care setting at a State Veterans Home.
  - To be eligible for participation in the Medicaid program, an individual veteran would have to meet an income and property threshold and be enrolled through the Division of Family and Children's Services.
- **LEAD TIME FOR STATE VETERANS' HOMES TO BECOME MEDICARE/MEDICAID CERTIFIED.**
  - It will take approximately 12 months for the two State veterans' homes in Augusta and Milledgeville to become certified as Medicare/Medicaid providers.
  - Accordingly, the earliest implementation of these State veterans' homes being able to receive payments from these programs would not be before state FY 2013, starting July 1, 2012.
- **PAYMENTS FROM MEDICARE ARE EPISODIC OF A MAXIMUM FOR 100 CARE DAYS PER EPISODE.**

- There must be a qualifying hospitalization of at least three (3) consecutive days in order for Medicare to pay for skilled nursing care up to the maximum of 100 days per episode.
- There can be multiples of episodes of hospitalizations in a year that would qualify a veteran patient to be eligible for Medicare payments in the skilled nursing environment.
- However Medicare payments to the State veterans' homes would only begin after the veteran patient is discharged from a hospital.
- **MOST SKILLED NURSING DAYS OF CARE FOR MEDICARE PURPOSES DO NOT REACH THE 100 DAYS MAXIMUM.**
  - In most cases skilled nursing care paid for by Medicare will be in the 30-50 days range.
  - Once the attending physician certifies the veteran patient has reached the end of the treatment associated with the qualifying hospitalization, the Medicare payments will be stopped.
- **UNDER CURRENT FEDERAL LAW, VA PAYMENTS FOR MEDICAL SERVICE PROVIDED TO VETERAN PATIENTS WHO ARE 70% SERVICE CONNECTED DISABLED VETERANS ARE CONSIDERED "FULL PAYMENT" FOR THAT CARE AND TREATMENT.**
  - Medicare and Medicaid payments will not be made on behalf of these veteran patients, as the VA payment, by law, is to cover total costs of care of those veteran patients.
  - Because the VA payment is considered under current law to be *full payment*, no state appropriations are currently needed to cover any of the costs of medical services provided to these veteran patients.
  - In essence, under the current federal law, these patients are provided their medical services at no cost to the State of Georgia.
- **SINCE THIS STUDY BEGAN, THE DEPARTMENT OF VETERANS SERVICE REQUESTED THE GOVERNOR'S OFFICE OF PLANNING AND BUDGET RECOMMEND THE GOVERNOR SUBMIT LEGISLATION TO THE GENERAL ASSEMBLY TO AUTHORIZE THE COMMISSIONER OF THE DEPARTMENT OF VETERANS SERVICE IN CONJUNCTION WITH THE VETERANS SERVICE BOARD THE AUTHORITY TO ESTABLISH A FEE OR CO-PAYMENT TO BE PAID BY VETERAN PATIENTS OF THE**

**STATE VETERANS' HOMES TO THE DEPARTMENT OF VETERANS SERVICE UNDER PROCEDURES ESTABLISHED BY THE COMMISSIONER OF THE DEPARTMENT.**

- The request by the Department asked for the legislation to be submitted if the recommended FY 2012 Budget reduction was at a level greater than 8.0%. A copy of the requested legislation is attached to this report.
- If the Commissioner of the Department of Veterans Service determined the primary funding sources for the operation of the State Veterans Homes, state appropriations and federal per diem payments, were not sufficient to adequately and optimally operate the homes based on the costs of care, then in conjunction with the Veterans Service Board a fee or copayment would be established and approved.
- The approved fee or copayment would offset the shortage stemming from the primary funding sources and could enable the admission of additional veteran patients to the State veterans' homes to provide optimal census levels and provision of care for Georgia's war veterans.
- The recommended legislation would setup a process to be used by the Department in a manner similar to the process used by the Board of Regents for setting tuition and fees at state colleges and universities.
- There would be no lead time required, as would be the case with participation in the Medicaid and Medicare programs, to begin collecting a fee or copayment once it is established in accordance with the process contained in the requested legislation proposed by the DVS to the Governor's Office of Planning and Budget as part of the DVS' FY 2012 budget request.
  - If the General Assembly passes the enabling legislation and the Governor signs it, the DVS could begin the process of establishing policies and procedures for implementing a fee or copayment system.
  - Once the actual fee or copayment is established and approved, the DVS could begin collecting it from the veteran patients and using the revenues obtained from the fee or co-payments to offset reduced funding from the two primary sources of funding for the operations of the state veterans homes, state appropriations and federal per diem payments.

- VA benefits, such as Aid and Attendance, could be a primary source for veteran patients to pay the fee or co-payment.
  - The maximum daily rate for the cash Aid and Attendance benefit (varies by income level of the individual veteran) is \$21.96.
  - While other compensation and pension benefits a veteran may be receiving are designed to address issues related to military service other than medical services, when a veteran becomes a patient of the nursing home/state veterans home, many of the uses of those benefits go away because the veteran is a patient and no longer living in a community setting.
  - Therefore, some of those benefits, which will most likely continue while the veteran is a patient in a nursing home/state veterans home, could be used in addition to any Aid and Attendance benefit to offset all or a portion of a fee or copayment as a veteran patient of a state veterans home.
- **THE MEDICAID AND MEDICARE PROGRAMS PAYMENTS TO STATE VETERANS' HOMES COULD BE USED TO OFFSET SOME OF THE EXPENSE TO VETERAN PATIENTS PAYMENTS TO THE HOMES.**
  - Payment of the fee or co-payment by the veteran patients would be their responsibility to make.
  - Medicare and Medicaid payments could be used by the Department of Veterans Service and the State veterans' homes to offset all or a portion of the amount of the fee or co-payment.

## **POSSIBLE ACTIONS**

The following is a list of possible actions available to be taken by the Department of Veterans Service related to the certification of State veterans' homes to participate in the Medicaid and Medicare programs.

- **CERTIFY STATE VETERANS' HOMES FOR PARTICIPATION IN THE MEDICAID AND MEDICARE PROGRAMS.**
- **IF THE BUDGET REDUCTION RECOMMENDED BY THE GOVERNOR TO THE GENERAL ASSEMBLY FOR THE DEPARTMENT OF VETERANS SERVICE IS GREATER THAN 8.0% OF THE BUDGET BASE FOR FY 2012, CERTIFY STATE VETERANS' HOMES FOR PARTICIPATION IN THE MEDICAID AND MEDICARE PROGRAMS.**
- **DO NOT CERTIFY STATE VETERANS' HOMES FOR PARTICIPATION IN THE MEDICAID AND MEDICARE PROGRAMS.**
- **IF THE RECOMMENDED BUDGET REDUCTION FOR YF 2012 IS GREATER THAN 8.0%, PROVIDE LEGISLATION TO AUTHORIZE THE DEPARTMENT OF VETERANS SERVICE TO ESTABLISH A FEE OR COPAYMENT TO CHARGE VETERAN PATIENTS OF STATE VETERANS' HOMES, COLLECT IT AND USE IT WHEN IT IS DETERMINED BY THE COMMISSIONER OF THE DEPARTMENT OF VETERANS SERVICE IN CONJUNCTION WITH THE VETERANS SERVICE BOARD THE HOMES CANNOT PROVIDE OPTIMAL MEDICAL SERVICES FUNDED ONLY BY THE TWO PRIMARY SOURCES OF REVENUE FOR THE HOMES, STATE APPROPRIATIONS AND FEDERAL PER DIEM PAYMENTS.**

## **ANALYSIS OF POSSIBLE ACTIONS**

The following is an analysis of the possible actions available to be taken by the Department of Veterans Service related to the certification of State veterans' homes to participate in the Medicaid and Medicare programs.

- **CERTIFY STATE VETERANS' HOMES FOR PARTICIPATION IN THE MEDICAID AND MEDICARE PROGRAMS.**
  - Favorable Arguments
    - Will provide some additional funding for the operation of the state veterans homes.
  - Unfavorable Arguments
    - Additional funding for the operations of the state veterans' homes using the Medicare program will be episodic and sporadic because the Medicare funds are related to follow-on skilled nursing medical services in a facility directly related to a minimum three day hospitalization.
      - The Medicare funding is then limited to 100 days, the first 20 days of which are fully paid by the Medicare program and the remaining up to 80 days are paid on an "80% - 20% split, with the individual veteran patient paying 20.0% of the cost of the care (from individual out-of-pocket sources).
      - Once the attending physician determines the hospitalization related skilled nursing care has been completed, the Medicare funding ceases.
      - A new cycle of Medicare funding cannot occur until after a period of 60 days and then there must be another minimum three days of hospitalization to start a new cycle.
    - Additional funding for the operations of the state veterans' homes using the Medicaid program will impact only those veteran patients who are determined to be of low income status.
      - Presently, the number of these veteran patients who are Medicaid eligible is few at both homes because most of them

are over income for Medicaid eligibility purposes, because most veteran patients are eligible for compensation and pension benefits from the VA and currently the State of Georgia is not charging veteran patients and they are not paying something toward the cost of the medical services they receive in state veterans homes.

- If the State of Georgia begins to charge veteran patients for the medical services provided by state veterans' homes through Medicare/Medicaid or some other means, then the income calculation for Medicaid eligibility will likely change and more low income veterans may become eligible to participate in the Medicaid program while being veteran patients at the homes.
- Estate Recovery is an integral component of the Medicaid program where Medicaid participants, who receive nursing home care, are subject to having the state pursue their estate following their death while as a patient or discharge from a nursing home.
  - The rights of the state preempt the rights of the survivors to the estate, or the value of it and the proceeds go to the state and not the family member/survivors.
  - **VA compensation, pension and Aid and Attendance benefits have no such recovery requirements.**
- Medicaid and Medicare payments are not applicable to 70% Service Connected disabled veteran patients of state veterans' homes because the VA per diem payment for this group of veteran patients is ***payment in full*** in accordance with federal law.
- Coverage under Medicaid and Medicare is limited to only those veteran patients who have a qualifying hospitalization or are of low income. The state veterans' homes would not receive any revenue from other veteran patients who do not qualify for either the Medicare or Medicaid programs.
- Currently, Georgia state veterans homes receive a thorough annual inspection by the VA.

- As a Medicaid/Medicare provider, the Georgia homes would be subject to a Centers for Medicaid and Medicare (CMS) inspection that is largely repetitious of the VA survey.
    - This would result in unnecessary duplication and expense to the taxpayer.
  - The newly enacted federal healthcare law states that program is to be paid, in part, by eliminating fraud, abuse and waste in federal health care programs by using recovery asset contractors, enhanced civil monetary penalties and suspension of payments during fraud investigations.
    - Budgeting for such fines, penalties and payment returns will be unknowns to the budgeting process.
    - In addition, asset recovery from the veteran or family is a real possibility.
  - Some nursing homes whose revenues are solely derived from Medicaid/Medicare reimbursement programs have experienced quality of care deficiencies.
    - Much of which have been attributed to the inordinate amount of time spent filling out federal paperwork rather than providing patient care.
    - In addition the level of funding paid to the nursing homes from these programs has been habitually low and has been determined to be partially attributable to maintenance of quality care for the patients.
- **IF THE BUDGET REDUCTION RECOMMENDED BY THE GOVERNOR TO THE GENERAL ASSEMBLY FOR THE DEPARTMENT OF VETERANS SERVICE IS GREATER THAN 8.0% OF THE BUDGET BASE FOR FY 2012, CERTIFY STATE VETERANS' HOMES FOR PARTICIPATION IN THE MEDICAID AND MEDICARE PROGRAMS.**
  - Favorable Arguments
    - Will provide some additional funding for the operation of the state veterans homes.
  - Unfavorable Arguments

- See Unfavorable Arguments for **CERTIFY STATE VETERANS' HOMES FOR PARTICIPATION IN THE MEDICAID AND MEDICARE PROGRAMS,** listed above, as the arguments are the same.
- **DO NOT CERTIFY STATE VETERANS' HOMES FOR PARTICIPATION IN THE MEDICAID AND MEDICARE PROGRAMS.**
  - Favorable Arguments
    - Funding for the operations of the state veterans' homes will continue to be at a steady and known amount and not subject to fluctuations, which would be the case using the Medicare program because the Medicare funds are related to follow-on skilled nursing medical services in a facility directly related to a minimum three day hospitalization.
      - The Medicare funding is then limited to 100 days, the first 20 days of which are fully paid by the Medicare program and the remaining up to 80 days are paid on an "80% - 20% split, with the individual veteran patient paying 20.0% of the cost of the care (from individual out-of-pocket sources).
      - Once the attending physician determines the hospitalization related skilled nursing care has been completed, the Medicare funding ceases.
      - A new cycle of Medicare funding cannot occur until after a period of 60 days and then there must be another minimal three days of hospitalization to start a new cycle.
    - All veteran patients of the state veterans' homes would be treated the same and there would be no distinction between veteran patients based on income.
    - Veteran patients of the state veterans' homes would not be subject to the Estate Recovery requirements of the Medicaid program that is an integral component of it, where Medicaid participants who receive nursing home care would be subject to having the state pursue their estate following their death while as a patient or discharge from a nursing home.

- Revenue fluctuations would occur under Medicaid and Medicare coverage because they are limited to only those veteran patients who have a qualifying hospitalization or are of low income.
  - Unfavorable Arguments
    - Additional revenue from a non-state funding source will not be provided for the operation of Georgia's state veterans homes.
- **IF THE RECOMMENDED BUDGET REDUCTION FOR FY 2012 IS GREATER THAN 8.0%, PROVIDE LEGISLATION TO AUTHORIZE THE DEPARTMENT OF VETERANS SERVICE TO ESTABLISH A FEE OR COPAYMENT TO CHARGE VETERAN PATIENTS OF STATE VETERANS' HOMES, COLLECT IT AND USE IT WHEN IT IS DETERMINED BY THE COMMISSIONER OF THE DEPARTMENT OF VETERANS SERVICE IN CONJUNCTION WITH THE VETERANS SERVICE BOARD THE HOMES CANNOT PROVIDE OPTIMAL MEDICAL SERVICES FUNDED ONLY BY THE TWO PRIMARY SOURCES OF REVENUE FOR THE HOMES, STATE APPROPRIATIONS AND FEDERAL PER DIEM PAYMENTS.**
  - Favorable Arguments
    - Would provide additional funding for the operations of state veterans' homes, if the primary funding sources, i.e., state appropriations and federal per diem payments, have been determined to not be at the optimal level to operate the homes.
    - Would provide a process for establishing, approving, billing and collecting a fee or copayment for each veteran patient of each state veterans' home. The process would enable the Department of Veterans Service to respond in a timely manner to exigent fiscal constraints impacting the optimal and effective operation of the state veterans' homes.
    - Would enable the Department of Veterans Service and the state veterans' homes to collect moneys from veterans who are receiving compensation and pension benefits from the VA, to include in many cases Aid and Attendance cash benefits that are designed to defray the costs of medical services provided at Georgia's state veterans' homes.
    - All veterans would pay the same amount with a fee or co-payment system.

- Under Medicaid, a welfare program, only about thirty-five percent of our veterans will qualify. Those veterans who qualify would relinquish all of their monthly income to the Medicaid program except for \$90.00 dollars per month.
- Under Medicare, there are stringent qualifying rules and associated Medicare co-payments to the veteran patients that would amount to over \$125 per day after the first twenty days (during which Medicare pays 100.0% of the total cost of care). In conjunction with associated Medicare co-payments, historically some veteran patients have been hospitalized more frequently than others. Using Medicare, this would result in the possibility of more associated Medicare co-payments for some than for others, thus, creating inequitable charges among the veteran patients, rather than treating all veteran patients alike.
- As there would be a steady flow of funding from the veteran patients paying the fee or co-payment, the ongoing funding level for the operations of the state veterans' homes would enable the homes to better project operational capabilities and respond to the needs of Georgia's veterans requiring medical services from state veterans' homes.
  - This steady flow of funding contrasts with the vagaries of funding related to the Medicaid and Medicare programs that are related to hospitalizations and low incomes of veteran patients. A fee or co-payment system will provide the state with a more accurate projection of funds received each year for each facility, thereby, allowing the state to better plan and budget for home operations.
  - With Medicaid/Medicare, the revenue is episodic, making financial projections difficult to ascertain.
- **The need to participate in the Medicaid and Medicare programs would be negated in Georgia through continued state**

**appropriated funding, federal per diem payments and payment of fees/co-payments by individual veteran patients.**

- Use of a fee/copayment system is preferable to participation in the Medicaid and Medicare programs because the funding would be known and ongoing for all veteran patients of the homes.
  - The funding would not be contingent on the health of the individual veteran patients, nor the income level of the veteran patients.
  - Veterans are our nation's heroes and they should be treated differently from the general population of our nation and state because of the service they provided to our nation by placing themselves in harm's way and subjecting themselves to potential loss of life and limb.
  - Their VA benefits and the benefits of the State of Georgia are from a grateful nation and state. They are not "entitlements" in the usual sense (Medicare – age related; Medicaid – income related; etc.), they are earned by service.
  - The VA recognizes the importance of treating veteran patients in state veterans' homes by providing a significant amount of the funding (up to 49.9%) for the operation of these homes.
  - The State of Georgia, likewise, has historically recognized the service of these veterans by funding a significant portion (at least 50.1%) of the care provided to them in these homes.
- Now, due to significant economic issues confronting the State of Georgia, the state should ask these veteran patients to participate in paying a portion of the cost of the medical services provided to them, especially when the VA provides many of them with compensation and pension benefits, especially medical related payments designed to cover all or a portion of the medical services they require when using state veterans' homes.
  - Asking these veteran patients to pay a portion of those compensation, pension and medical benefits to offset a portion

of the cost of the care being provided to them is not a diminution of benefits, taxation or otherwise a taking of personal assets.

- If those benefits are available to the veteran patient, they should be paid to the state veterans' homes to cover costs of care.
- If those benefits are not available, the individual veteran patient is "over income" and can afford a minimal fee or co-payment, or they are entitled to the benefits and should apply for them.
- Charging a fee/copayment is an easy program to administer, unlike the complicated program administration processes and inspections associated with participation in the Medicaid and Medicare programs.
  - A fee or co-payment system would not require additional specialized staff other than one or two additional bookkeeping type positions.
  - With Medicaid and Medicare, a host of additional specialized personnel would be required to maintain compliance.
    - A Certified Public Accountant must be retained for establishing new accounting procedures and for preparing annual cost reports.
    - Additional legal representation will be required for disputed payment claims.
    - Due to the additional overhead involved with Medicaid/Medicare implementation, there is no substantial evidence to support setting up a Medicaid/Medicare system in the veterans' homes, or that by doing so will provide an overall cost savings to the state.
- The fee/copayment system would only be instituted if the two primary funding sources for the operation of Georgia' state veterans' homes, state appropriations and federal per diem payments, are determined to not be sufficient for the optimal operation of the homes.

- It is anticipated the fee/copayment would be nominal and would only augment the two primary funding sources, state appropriations and federal per diem payments. **If in time it is determined the homes could again operate using only the two primary funding sources, there would be provision for reducing or discontinuing the collection of a fee or co-payment.**
- High administrative burden on the state veterans' homes related to additional operational inspections and reviews would not be present.
- Participation in the Medicaid and Medicare programs would not be necessary, as use of already available VA compensation, pension and medical benefits would be able to cover the costs of medical services provided to the veteran patients of the state veterans' homes.
- Unfavorable Arguments
  - Some veteran patients will see it as a diminution of benefits or taxation, or penalty.
  - The existing ability of veteran patients to establish “nest eggs” to pass-on to their families after death that were funded through the receipt of VA compensation, pension and medical benefits not paid to the State of Georgia would be discontinued.

## CONCLUSIONS

- The State of Georgia should authorize the Department of Veterans Service to charge a fee or copayment to veteran patients of state veterans' homes to cover a portion of the costs of providing them medical services at these homes. The primary funding sources, state appropriations and federal per diem payments, should remain in place. The fee or copayment should only be used to augment the primary funding sources.
- Participation in the Medicaid and Medicare programs by the state veterans' homes is not needed to provide additional funding for the operation the state veterans' homes, either as a primary third funding source or as a source of paying a fee or co-payment.
- Use of the Medicaid and Medicare programs for state veterans' homes would be a complicated means of obtaining additional funding for the homes. There are too many vagaries in those two programs for which the state veterans' homes are not staffed to support, such as additional inspections, utilization review, billings to the programs, funding fluctuations, etc. This would require the state veterans' homes to hire more staff to process the entire administrative processes attendant to these programs.
- If the State of Georgia is not able to continue to jointly fund the state veterans' homes solely through the use of state appropriations and federal per diem payments without charging the individual veteran patients, then the State should establish a fee or copayment collection process/system that would augment the two primary funding sources by providing funds for the Department to use to provide additional funding for the operation of the homes.
- The State of Georgia should continue to play a role in the funding the operation of the state veterans' homes through state appropriations. The commitment of the State of Georgia dating from the 1950's to provide benefits to its veterans based on medical need, not just because they served, should continue and be honored to the fullest extent possible.

## **RECOMMENDATIONS**

- Recommend the General Assembly approve legislation to establish a process/system for the establishment, collection and use of a fee or copayment to be paid by veteran patients of the state veterans' homes for the medical services provided to them.
- Recommend the General Assembly not authorize or require the Department of Veterans Service to participate in the Medicaid and Medicare programs as a source of funding for the operation of the state veterans' homes or as a secondary source of funding for those homes.

**PROPOSED LEGISLATION TO COLLECT A FEE OR CO-PAYMENT FROM  
VETERAN PATIENTS OF STATE VETERANS' HOMES**

Be it enacted by the House of Representatives and the Senate of Georgia a law to amend Title 38 of the Official Code of Georgia, by adding the following to Section 38-4-2., of Title 38:

38-4-2.

(c) (Added) Primary funding for the operation of state veterans homes shall be from two sources: state appropriations and federal government appropriated per diem payments.

(1) In addition to the primary funding, when the commissioner of veterans service determines appropriated funding for the continued operation of the state veterans' homes cannot be sustained through the use of primary funding, the commissioner shall establish, subject to the approval of the Veterans Service Board, a fee to be collected from veteran patients who are residents of the state veterans homes to be used to sustain the operations of the homes at levels commensurate to the needs of the war veterans of Georgia and the available physical resources of the homes to provide the needed medical services to veteran patients. The amount of the fee may be adjusted periodically by the commissioner of veterans service, subject to the approval of the Veterans Service Board, based on the commissioner's determination of the sufficiency of the amount of the primary funding and funding available from a previously established fee to support the operations of the state veterans homes.

Imposition of this fee is subject to the O.C.G.A. Section 45-12-92.1

(2) The fee shall be in an approved amount per day for each day a veteran patient is a resident of a state veterans' home.

(3) The commissioner of the Department of Veterans Service shall establish policies and procedures to implement the provisions of this section.

(4) When a fee has been established, Section 38-4-2.-(c)(1), a veteran patient in a state veterans home receiving medical services from the home shall pay the value of the fee, Section 38-4-2.-(c)(1), times the number of days of residency in the month to the state veterans home, Section 38-4-2.-(a)(4), where a veteran patient resides and the home shall collect from the veteran patient the value of the fee times the number of days of residency in the month.

1 (5) The collection from each veteran patient of the value of the fee times the number of days  
2 of residency in the month shall be made on a monthly basis by the state veterans home and  
3 shall be calculated as provided in Section 38-4-2.-(c)(5), below.

4 (a) The moneys shall be due from and payable by a veteran patient no later than 30 days from  
5 the date of the bill submitted by the state veterans home to a veteran patient.

6 (b) Payments by a veteran patient to the state veterans home shall be delinquent after 30  
7 days from the date of the bill. The state veterans home shall then notify the delinquent  
8 veteran patient the payment is due immediately and failure to make the payment will result in  
9 discharge from the home in 35 days from the date of the delinquency notice to the veteran  
10 patient, Section 38-4-2.-(c)(5)(b)2 below.

11 1. Failure of a veteran patient to pay the amount of the bill for more than 35 days from the  
12 date of the bill shall make the amount collectable by the state veterans home through the use  
13 of appropriate collection means, established in accordance with Section 38-4-2.-(c)(3).

14 2. At 35 days delinquency of payment of the value of the bill, the state veterans home shall  
15 issue a discharge notice to the veteran patient with the discharge being effective no later than  
16 30 days from the date of issue of the notice, unless the payment is made before that date. In  
17 this situation the state veterans home shall comply with the requirements of the state's  
18 nursing homes laws and regulations, as amended, related to arranging for suitable placement  
19 in another appropriate source of care for medical services prior to the placement being made.

20 (6) The amount of moneys to be collected by the state veterans homes shall be the per diem  
21 value of the fee, Section 38-4-2.-(c)(1), times the number of days in a month a veteran patient  
22 received medical services at a state veterans home.

23 (a) The state veterans homes shall establish appropriate accounts and generally accepted  
24 accounting procedures to deposit and account for the value of the fees collected from the  
25 veteran patients in accordance with applicable generally accepted accounting practices and  
26 Section 38-4-2.-(c)(3).

27 (b) In accordance with Section 38-4-2.-(c)(3), the state veterans homes will report to the  
28 department the monthly receipts of moneys collected from the veteran patients and will  
29 request approval and authorization from the department for the expenditure of the moneys by  
30 the homes. Upon receipt of approval from the department, the moneys shall be expended for  
31 the benefit of the state veterans home from which the moneys were collected.

32 (c) Moneys collected from fee payments not expended during the fiscal year in which they  
33 are collected shall be placed in a department or state homes accounting reserve fund to be

1 expended by the state veterans homes, with the approval of the department, within 12 months  
2 of the date of deposit into the accounting reserve, Section 38-4-2.-(c)(3).

3 1. Any funds from this reserve account not expended by the end of the applicable 12 month  
4 period shall be returned to the general fund in accordance with state law.

5 2. Funds deposited into the accounting reserve fund shall be used to support the operation of  
6 the state veterans homes related to direct veteran patient care, facility maintenance and  
7 operations in support of veterans patient care at the state veterans home.

8 3. Appropriate accounting for these moneys shall be maintained in accordance with generally  
9 accepted accounting practices and Section 38-4-2.-(c)(3).

10 (7) This legislation supersedes all previous legislation related to the billing to, collecting of  
11 fees or moneys from veteran patients and the use of those moneys by the state veterans  
12 homes operated by the Department of Veterans Service.