

**NINETY-SIXTH NATIONAL CONVENTION
OF
THE AMERICAN LEGION
Charlotte, North Carolina
August 26, 27, 28, 2014**

Resolution No. 142: Opening the Federal Supply Schedule for Pharmaceuticals to Medicare and Medicaid

Origin: Maryland

Submitted by: Convention Committee on Veterans Affairs & Rehabilitation

WHEREAS, The Federal Supply Schedule for Pharmaceuticals (FSS-P) is a schedule of pharmaceutical supply contracts awarded to responsible vendors supplying comparable products and services at fair and reasonable prices to the government; and

WHEREAS, FSS-P is essentially a price catalog of approximately 24,000 pharmaceutical products available to the federal government; and

WHEREAS, The Department of Veterans Affairs (VA) is the largest purchaser of pharmaceuticals under FSS-P; and

WHEREAS, Pricing of pharmaceuticals to VA is at least 24% below and as much as 60% below drug manufacturers' most favored non-federal, non-retail customer pricing; and

WHEREAS, Known as Federal Ceiling Prices (FCP), these prices are generally 14-20% lower than regular negotiated FSS-P prices; and

WHEREAS, Medicaid is a joint federal and state program that pays for medical assistance for individuals and families with low incomes and relatively few assets; and

WHEREAS, Numerous states encounter shortfalls in Medicaid funds and implement aggressive measures to control growth and curb expenditures, including prescription drug expenditures; and

WHEREAS, Beneficiaries of prescription drug benefits under Medicaid who also receive medical care under Medicare Parts A and B are known as "dual-eligible"; and

WHEREAS, "Dual-eligible" are mostly elderly poor who account for 34% of the enrolled Medicaid population, but 80% of the Medicaid drug bill; and

WHEREAS, "Dual-eligible" beneficiaries were automatically enrolled into the new Medicare Part D prescription drug benefit; and

WHEREAS, In 1990, the Omnibus Budget Reconciliation Act of 1990 (OBRA90) required drug manufacturers to provide rebates to state Medicaid programs for outpatient drug purchases in exchange for Medicaid reimbursement; and

WHEREAS, Manufacturers are willing to price FSS-P low because it accounts for a very small fraction of the total domestic drug market and because up to 70% of new doctors receive some residency training in medical school affiliated VA medical centers, thereby creating a continuous flow of loyal prescribers of their products; and

WHEREAS, When OBRA90 Medicaid rebates went into effect, manufacturers responded by raising FSS-P pricing to VA some 14%; and

WHEREAS, If federal legislation mandates that the new Medicare Part D drug benefit be tied to FSS-P, pharmaceutical manufacturers will act predictably to raise FSS-P prices to VA; and

WHEREAS, U.S. veterans in priority group 7 receiving VA medications on an outpatient basis are required to pay a co-payment of \$8.00 for a 30-day supply of medication and veterans in priority group 8 are required to pay a co-payment of \$9.00 for a 30-day supply of medication would almost certainly end up paying more were VA to lose its protected FSS-P pricing; and

WHEREAS, The American Legion has consistently opposed increases in prescription co-payments in the past, arguing that corrections to other programs should not be made “on the backs of veterans”; now, therefore, be it

RESOLVED, By The American Legion in National Convention assembled in Charlotte, North Carolina, August 26, 27, 28, 2014, That The American Legion oppose any federal legislation that would open the Federal Supply Schedule for Pharmaceuticals to Medicaid, Medicare Part D, or any other entity or program not now specifically authorized to purchase on the Federal Supply Schedule for Pharmaceuticals.