State Veterans’ Home Per Diem Reimbursement—The 70 Percent Rule

**Background:**

State Veterans’ Homes exist to provide additional care and residency for indigent and disabled veterans no longer able to care for themselves as a supplement to the national veterans’ homes. Title 38, United States Code (U.S.C.) authorizes the Department of Veterans Affairs (VA) to pay per diems for care in State Veterans’ Homes to those veterans with a 70 percent or greater service-connection rating.

The Government Accountability Office (GAO) Report 06-264 (March, 2006) “Data Gaps Impede Strategic Planning for and Oversight of State Veterans’ Nursing Homes” identified that certain aspects of VA’s per diem reimbursement policy had not been applied consistently and VA headquarters officials have not been consistent in explaining to VA Medical Centers whether they could approve reimbursement to state veterans nursing homes for care provided to veterans. Public Law (P.L.) 109-461, Veterans Benefits, Health Care, and Information Technology Act of 2006, authorized the Secretary of VA to publish a Strategic Plan for Long-Term Care for VA to include specific plans for working with Medicare, Medicaid, and private insurance companies to expand the availability of such long-term care, which included State Veterans’ Homes;

In response to P.L. 109-461 in August 2007, VA submitted the long-term care strategic plan to Congress with the effective dates through Fiscal Year (FY) 2013.

The GAO Report 09-145 (January, 2009) “Long-Term Care Strategic Planning and Budgeting Need Improvement” reported that, “many veterans who need long-term care do not receive it from VA, but instead receive care from other providers that is financed by programs such as Medicaid, Medicare, private health or long-term care insurance, or self-financing by the patients.” GAO Report 09-145 further concluded as a result, in VA’s long-term care strategic planning, determining future workload is a multi-step process requiring estimating the number of veterans who will need long-term care, the number of those veterans seeking care through the VA and the number of veterans VA will serve, which is expected to increase by 167 percent between FY 2007 and 2013 and that VA
provided unrealistic cost assumptions and workloads in its FY 2009 budget submission.

Ultimately VA pays State Veterans’ Homes a per diem that covers approximately one-third of the cost of providing these services to eligible veterans, which is less than the actual daily cost of care provided by Medicare/Medicaid rate.

The National Association of State Veterans Homes (NASVH) and State Directors of Veterans Affairs (NASDVA), recommends that Congress pass a clarifying amendment to P.L. 109-461 to postpone the mandatory implementation of the VA per diem program due to the lower cost of VA’s per diem amount, compared to the Medicare/Medicaid rate which would shift all the cost burden on the State Veterans’ Home operating budget.

**The Legion Position:**

The American Legion has supported enactment of legislation to require VA per diem payments to be adjusted to a rate of 50 percent of the national average cost of providing care in State Veterans’ Homes, and to increase the VA per diem rate closer to the Medicare/Medicaid rate. Furthermore, by resolution it is stated that The American Legion remains concerned that Congress has not provided clarification of P.L. 109-461 and VA has not factually reported its planning workload projections to assist State Veterans’ Homes budgets.

Resolution 175 of the 92nd National Convention supports pushing for clarification of P.L. 109-461 as specified above and for VA to adjust their projections of workload to the 167 percent increase projected by GAO. To get this point across it must be stressed that VA is operating from insufficient projections and underfunding this important safety net for some of the most vulnerable veterans.