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**HEARING ON WOUNDED WARRIOR INSURANCE:
A FIRST LOOK AT A NEW BENEFIT FOR
TRAUMATICALLY INJURED SERVICEMEMBERS**

HEARING
BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
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HEARING ON WOUNDED WARRIOR INSURANCE: A FIRST LOOK AT A NEW BENEFIT FOR TRAUMATICALLY INJURED SERVICE-MEMBERS

THURSDAY, SEPTEMBER 7, 2006

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 10 a.m., in room SR-418, Russell Senate Office Building, Hon. Larry E. Craig, Chairman of the Committee, presiding.

Present: Senators Craig, Thune, Akaka, Murray, and Salazar.

**OPENING STATEMENT OF HON. LARRY E. CRAIG, CHAIRMAN,
U.S. SENATOR FROM IDAHO**

Chairman CRAIG. Good morning, ladies and gentlemen and welcome to the U.S. Senate's Committee on Veterans' Affairs.

Today's hearing is entitled "Wounded Warrior Insurance: A First Look at a New Benefit for Traumatcally Injured Servicemembers.

As the hearing's title suggests, this is our first opportunity to hear testimony about the traumatically injured protection under servicemembers group life insurance benefit, or TSGLI. We are working on an acronym for it, but right now I am going to stay with TSGLI.

More importantly, it is the Committee's first chance to examine whether this program, barely in operation for a year, is working as we in the Committee intended it to work. I refer to this benefit as Wounded Warrior Insurance for two reasons. First, because it was conceived for the benefit of America's warriors, our men and women in the military who bear the brunt of terrorist attacks that would otherwise be targeted at you and me and our loved ones. Second, because three young wounded warriors from Operation Iraqi Freedom brought this need for this insurance program to my attention.

These three Army veterans met with me in my office in April of last year. One had lost a leg in combat. The second had lost two legs. The third had lost his sight.

They all had spent a considerable amount of time recovering from their traumatic wounds at Walter Reed Army Medical Center. They told me of the financial hardships that wounded servicemembers and their families endured during lengthy recovery processes. They talked about spouses or parents who quit work to be with wounded servicemembers during their convalescence, and

bills mounting up from expenses, both back home and living away from home.

They asked that I introduce legislation to create an insurance benefit that would help bridge the gap in financial assistance servicemembers received from the time of their injury to the time of their rehabilitation and their recovery. And that is what we did.

Working with Senator Akaka, who joined me as a cosponsor of the legislation, their idea became law in a little over a month. Legislation typically is not enacted so swiftly without having a lot of help along the way, and we did. Not only with Senator Akaka, who cosponsored it, but also with senior VA and DOD officials, who immediately answered the call by providing assistance in drafting the bill and making their support known early and publicly.

What has resulted from all of our collective effort is that nearly 2,700 servicemembers with traumatic injuries have received payments ranging from \$25,000 to \$100,000 under the Wounded Warrior Insurance Program. They come from every State in America, including 18 from my State of Idaho. These are brave men and women who have lost their limbs, who are deaf or blind, who are paralyzed or severely burned, or still may be suffering from the effects of traumatic brain injury.

With injuries of this magnitude, they and their families must be allowed to focus on rehabilitation and recovery and not on how they will make the next rent payment, or how they will pay the power bill. Wounded Warrior Insurance helps make that possible.

Today the Committee will consider questions that should routinely be asked of any Government program. Is the program meeting the intent, the needs? Is the effort under way to respond as we expected? How well is it being administered? How can it be improved, if it needs to be?

We have witnesses here today with extensive knowledge of the Wounded Warrior Insurance Program, who will help us answer some of these questions. For my part, there are three elements to the benefit that I consider to be essential if it is to meet the intent of the legislative purpose.

First, eligible servicemembers must be identified quickly so that payment can be made immediately. Delay in payment would defeat the very purpose of the program. Second, the list of covered injuries must be relatively straightforward so that eligibility may be established expeditiously and not be delayed through a lengthy, drawn out adjudication process. And third, cooperation between VA and DOD and individual military service branches must be present at all times so that the seamless service may be provided to our wounded warriors.

Before I introduce our witnesses let me turn to the Ranking Member of the Committee, my cosponsor of this legislation, Senator Akaka. Then I will turn to other of our colleagues who have joined us, but first and foremost, Senator Danny Akaka.

Danny.

**STATEMENT OF HON. DANIEL K. AKAKA, RANKING MEMBER,
U.S. SENATOR FROM HAWAII**

Senator AKAKA. Thank you very much, Mr. Chairman. I want to thank you for calling this very important hearing.

And I want you to know, Mr. Chairman, that I am very proud to have been an original cosponsor of your legislation that established traumatic injury protection. This important benefit is a good example of the wonderful things that can be done when Members work in a bipartisan manner.

This program supplements existing DOD and VA benefits. As we discussed when we were crafting this new benefit, servicemembers and their loved ones face many financial hardships when a servicemember is hospitalized with injuries. This insurance program helps ease the financial burden during this critical time. It allows servicemembers and their families to focus on what is really important, and that is the recovery of the injured servicemember.

In my home State of Hawaii, 35 claims have been paid under this program, totaling over \$2 million. While I sincerely wish that there were not so many injuries that qualified for payment, I am nevertheless gratified that this important benefit has been available to ease the financial burden placed on Island servicemembers and their families.

I thank the witnesses for being here today. From all accounts, the traumatic injury protection program seems to be running well. I hope to hear from our panelists their suggestions on how this program might be administered even better, and also their views on what changes might be made to improve the existing law so that this benefit can be made. In particular, I am concerned that the retroactive portion of this benefit differentiates between those injured while participating in operations Enduring Freedom and Iraqi Freedom and those who were injured on active duty in other locations.

Again, Chairman Craig, thank you very much for calling this hearing and I look forward to hearing the comments of the witnesses. I have another engagement, so I will be leaving early.

Thank you very much, Mr. Chairman.

Chairman CRAIG. Danny, thank you very much for being here this morning for this oversight hearing.

Now, let me turn to Senator Ken Salazar. He is also one of the original cosponsors of this legislation.

Ken.

**STATEMENT OF HON. KEN SALAZAR,
U.S. SENATOR FROM COLORADO**

Senator SALAZAR. Thank you very much, Chairman Craig and Ranking Member Akaka, for holding this hearing today, and thank you for your leadership and sponsorship of this legislation.

When I visit Walter Reed Army Hospital it is a stark, quick reminder as to why it is that this program is so important. I am pleased that it is up and running and that this Committee and the Congress supported the effort.

In just a few short months, this Wounded Warrior Insurance has given over 2,600 American heroes the resources they need to recover from devastating traumatic injuries. Injuries that forever

alter the lives of the brave men and women who fight for our country.

We have one of those heroes with us today, Sergeant John Keith. Sergeant Keith, I thank you for being here to share your story. You are a true patriot and an example to us all. Your perspective on this program is the one that truly matters, and I look forward to hearing your take on whether the Federal Government is doing enough.

Most of us can only imagine what it would be like to lose a limb, suffer extensive burns, or lose the ability to see and hear the world around us. Yet, each and every day Americans return from Iraq and Afghanistan and other war-torn corners of the world with these and other life-altering injuries. Amazingly, each and every day these same brave men and women continue on with their lives, nourished by the love and support of their families and loved ones and strengthened by their own determination to lead productive and successful lives.

We would not be giving credit where it is so clearly due if we were to attribute the recovery and prosperity of so many of our wounded warriors to an insurance benefit alone. The Wounded Warrior benefit merely supplements the strength and resolve of our fighting men and women, and it can never come close to making up for the sacrifices that they have already made for our country.

Given the short time in which the Wounded Warrior program was implemented and the fact that we have only seen a few months of its actual management, I am pleased at the success it has met with so far. However, I know that as is the case with every Federal program, there are some knots we still need to work through.

I am concerned, for instance, as Senator Akaka is, that many of our Nation's greatest heroes are still unable to collect Wounded Warrior benefits because they were injured before the effective retroactive date. Now that we know the program can work, I am interested to hear the perspectives of this panel and my colleagues on whether it can and should be expanded.

I would also like to discuss whether VA's outreach program can be more effective, particularly to rural communities. I am eager for the testimony of Veterans Affairs and DOD representatives who are here with us today and hopeful that with their help—with your help—we can make this program even better.

Thank you for being with us today.

Thank you, Mr. Chairman.

Chairman CRAIG. Senator Salazar, thank you very much. Now let me turn to Senator Patty Murray, who is also a strong supporter of this legislation.

Thank you, Patty.

**STATEMENT OF HON. PATTY MURRAY,
U.S. SENATOR FROM WASHINGTON**

Senator MURRAY. Thank you, Mr. Chairman and Senator Akaka, for holding this hearing. I want to join in commending both of you for working on this really important issue and helping to expand the servicemembers group life insurance to include traumatic injury protection.

This was a major accomplishment for both our servicemembers and our veterans, and I look forward to working with everyone to ensure that this program runs smoothly. I also want to welcome both of the panels who are here today, and I look forward to hearing about the initial response to the program and what impact it has had.

I think everyone in this Congress and in this room will agree that there is nothing more important than taking care of the men and women in uniform as they come back from combat overseas. Nearly 20,000 servicemembers have returned from Iraq with injuries. Thousands more have psychological injuries and, to date, 185,000 veterans from Iraq and Afghanistan have already sought VA health care.

So, let me be clear. Of the 589,000 separated Iraqi and Afghani veterans, 185,000, that is over 31 percent, have sought VA health care. That is thousands more veterans with combat-related disabilities than either the Department of Defense or the VA plan to take care of. The Department of Defense and the VA have to come forward with a real, comprehensive plan on how the Administration intends to handle providing the service that those veterans need.

Mr. Chairman, beyond that, I am very troubled to hear that there have been an increasing number of soldiers returning from the battlefield with traumatic brain injuries and at risk for mental health problems. According to the Pentagon, there have been over 1,200 servicemembers that have returned from Iraq and Afghanistan that have been diagnosed now with traumatic brain injury. And there are potentially hundreds more that have not been screened or may have problems that are undiagnosed. As we all know, well over a third of returning servicemembers are now seeking mental health care.

So my question to this panel is going to be, if the Department of Defense is willing to provide, to date, up to \$165 million through TSGLI, and if early detection and screening for traumatic brain injury and PTSD will help decrease the disabilities of returning servicemembers, why is the Pentagon not requiring mandatory TBI and PTSD screening?

We know that allowing traumatic brain injuries and PTSD go untreated can ultimately lead to more severe mental health disorders and physical ailments. So, I want to know why we are not aggressively screening servicemembers. I think that the DOD and the VA should be more proactive and more aggressive with the care and treatment of our servicemembers as they transition out of service and return from combat zones.

TSGLI is part of the solution, and I am proud of what it provides to our soldiers and our sailors, our airmen and our Marines. But we also owe it to those servicemembers to screen them for TBI and PTS and to aggressively pursue treatment to help provide them with the best care as soon as possible to make sure that we do not let these problems linger on for years, or let them go undiagnosed until they have substantially severe symptoms.

TSGLI eligibility has also been expanded recently from 1 to 2 years. I support that extension, but I still have concerns about the limit of time it takes for certain trauma and mental health problems to surface after being injured. I am afraid that we are still,

by that limitation, denying veterans the ability to access this coverage solely because of that eligibility period.

Mr. Chairman, TSGLI is a great first step, and I hope to hear today how the Administration is going to aggressively screen for and treat both TBI and PTSD, and I will pursue within my questioning time.

Thank you very much.

Chairman CRAIG. Senator Murray, thank you very much.

Now, let me introduce our panelists. We have two panels of witnesses to help us answer some of the questions that will be asked today of this program.

On our first panel, we are joined by the Honorable Michael Dominguez, Principal Deputy Under Secretary of Defense for Personnel and Readiness; and Mr. Thomas Lastowka, Director of the Veterans Benefits Administration's Insurance Service. Mr. Lastowka is accompanied by Deputy Assistant Director for VA Insurance Services, Steve Wurtz.

On our second panel, we are fortunate to have Sergeant John Keith. As Senator Salazar mentioned earlier, Sergeant Keith is a combat wounded veteran of Operation Iraqi Freedom and a recipient of the Wounded Warrior Insurance Program.

Sergeant Keith will share with us his personal story following his combat wounds through to his receipt of the payment of the program.

Joining Sergeant Keith is Jeremy Chwat, the Associate Executive Director of Policy and Service of the Wounded Warrior Project.

As all of you have heard from my earlier comments, the Wounded Warrior Project was instrumental in the conception of this benefit, and Mr. Chwat's testimony is of particular value to us today.

So we welcome all of you to the Committee. We will start with our first panel, and with you, Mike. So, please proceed.

STATEMENT OF HON. MICHAEL DOMINGUEZ, PRINCIPAL DEPUTY UNDER SECRETARY, DEFENSE FOR PERSONNEL AND READINESS, DEPARTMENT OF DEFENSE

Mr. DOMINGUEZ. Mr. Chairman and Members of the Committee, thank you for the opportunity to be here today.

And thank you for the legislation that created traumatic injury insurance coverage for members of the uniformed services. It is my privilege to report to you on our progress in implementing this important program, in close cooperation with our partners from the Department of Veterans Affairs.

I would like to open today with a few brief comments that will supplement the more detailed written statement that I have provided and that I request be incorporated into the record of this hearing.

Chairman CRAIG. Without objection, all of your written testimonies will be made part of the record.

Mr. DOMINGUEZ. Thank you, Sir.

Senator Craig, let me say how in my previous position as Assistant Secretary of the Air Force, I enjoyed working with you in your capacity as a member of the Air Force Academy's Board of Visitors. I appreciated your leadership in that important role and I am

equally pleased to recognize your leadership role in creating the traumatic servicemembers group life insurance program.

I do also want to say how impressive that piece of legislation is in terms of providing the Department of Veterans Affairs and DOD the flexibility to set up a program, try it, and amend it as we go, as we grow, and as we learn in it. I think that it was a piece of enlightened legislation, Sir, and I compliment the Committee on that work.

I mentioned already our partners in the Veterans Affairs Department. The strong partnership with VA is an essential component of our ability to provide quality care for those who have served in the Armed Forces. The VA/DOD Joint Executive Council has completed its third year in a joint effort to enhance coordination and resource sharing. Our efforts, together with the support and encouragement of the Congress have improved the effectiveness and efficiency of service delivery across a wide spectrum of programs.

The TSGLI program is a model of that cooperation, and I thank my colleagues here today from the VA for their contribution and their service to our Nation's veterans. There are other significant areas of cooperation between the DOD and the VA. One that I hope to speak to you about in the future involves the much in the news, but also much misunderstood, DOD and VA efforts to coordinate sharing of data from our two electronic health record systems.

I am also pleased to acknowledge in testimony today the extraordinary contribution to our injured and wounded from a wide variety of private, not-for-profit organizations, including the Wounded Warrior Project, a group you will be hearing from in the next panel. I am pleased with our partnership, and I am pleased with the progress we have made implementing this program. Our work attending to our partnership and improving stewardship of the TSGLI program is not complete. However, we can always do better and we will work tirelessly to do so.

So, I look forward to your questions. Thank you.

[The prepared statement of Mr. Dominguez follows:]

PREPARED STATEMENT OF HON. MICHAEL DOMINGUEZ, PRINCIPAL DEPUTY UNDER SECRETARY OF DEFENSE, PERSONNEL AND READINESS, DEPARTMENT OF DEFENSE

INTRODUCTION

Mr. Chairman and Committee Members, thank you for the opportunity to be here today and thank you for the legislation which created traumatic injury insurance coverage for members of the Uniformed Services. It is my privilege to discuss the Traumatic Servicemembers' Group Life Insurance (TSGLI) program.

TSGLI is an extraordinary insurance program for people in uniform. While the program applies equally to all branches of the Uniformed Services, those of the Department of Defense represent the vast majority of persons affected, making DOD the principal program client. And it is in that context that we view this program—where the Department, as an employer client, obtains a product for our people.

PRIMARY ASPECTS OF THE PROGRAM

Let me emphasize that, in the Department's view, the program is working very well, and the Department of Defense is a satisfied customer. In the following paragraphs, I address several aspects of the program.

Availability

The TSGLI benefit is provided retroactively for members who incurred severe losses as a result of traumatic injury between October 7, 2001 and November 30, 2005, if the loss was the direct result of a traumatic injury incurred in the theater

of operations during Operation Enduring Freedom or Operation Iraqi Freedom (OEF/OIF). Beginning December 1, 2005, every member who has Servicemembers' Group Life Insurance (SGLI) also has TSGLI. TSGLI coverage applies to active duty members, drilling reservists, and reservists performing funeral honors duty or 1-day muster duty.

There are several fundamental benefits associated with the linkage of SGLI and TSGLI coverage. First, coverage under SGLI is automatic and includes TSGLI coverage. No member is without SGLI coverage unless he or she specifically chooses that condition. Second, additional coverage for traumatic injuries is included in SGLI life insurance coverage for an additional cost of only \$1.00. If the member finds the coverage under SGLI is greater than they desire, they can make adjustments to the SGLI coverage amount without affecting their TSGLI coverage. Third, the DOD is an employer client for both SGLI and TSGLI, obtaining a benefit for our people from the Department of Veterans Affairs (VA). The VA, in turn, contracts with an insurance provider to manage the benefits. This insurance provider underwrites the broader risks of the program. This structure is an important aspect of the program that makes it particularly robust. We have a great working relationship with the VA Insurance Center staff and have always found them to be most responsive to our needs.

Outreach for Retroactive Claims

The Services identified potential claimants for the retroactive portion of TSGLI by reviewing casualty lists to ensure the injury occurred during the covered period and in qualified locations. Members listed as seriously wounded, very seriously wounded or temporarily or permanently disabled were flagged as potential beneficiaries. A letter was mailed to this group stating that the member had been identified as a potential beneficiary and directing them to the appropriate points of contact to begin the application process. In addition, those members who had died after a period of seven or more days in a treatment facility were identified as potential beneficiaries and letters were mailed to their survivors.

The National Policy Director for the Wounded Warrior Project, a group that assists men and women of our Armed Forces who have been severely injured during the conflicts in Iraq, Afghanistan, and other locations around the world, provided a list of significantly wounded Servicemembers to DOD. Although not all members on this list qualified for payment under the retroactive portion of the law, the list was a good cross check of recipients.

Prospective Outreach

We in the DOD personnel community have worked hard to ensure that members are made aware of the TSGLI benefit. All Services have created a Web site for dissemination of program information and application procedures for members. In addition, each Service provides a 1-800 number for members to call for information regarding any aspect of the program. These resources are available for active duty, Reserve members, members who have transitioned from a military Service, and surviving spouses.

In November 2005, members were alerted to the new TSGLI program through a statement on the Leave and Earnings Statement. The statement was tailored to each Service, but stated essentially that, effective December 1, 2005 the SGLI deduction would increase \$1.00 per month for traumatic injury protection (TSGLI). The statement then directed them to the VA insurance Web site for additional information.

In addition to DOD press releases announcing important program aspects, articles have appeared in various media including Military Times Newspapers, Army Families Online, the Association of the United States Army, The American Legion, and the National Guard Association of the United States, which highlighted the benefits for members of the Reserve.

The Application Process

The application process for a TSGLI benefit involves a series of steps which allows for rapid payment of benefits to members who qualify, with checks inserted to prevent errors. A member in a military treatment facility will learn about the program from a patient advocate or medical personnel who will help them obtain a TSGLI certification form. Those members, who have suffered a loss due to a traumatic event, submit a certification form as soon as they are able or the guardian or attorney in fact may submit the application on their behalf. A physician, either in a military treatment facility or civilian hospital, documents the extent of the injuries. The certification form is then forwarded to the respective military Service via fax or e-mail for certification. Each Service certification officer will typically use DCIPS—the Defense Casualty Information Processing System to confirm the dates, type, and ex-

tent of the injury. Once certified, the form is sent to the Office of Servicemembers' Group Life Insurance (OSGLI) to verify SGLI coverage and make payment.

Cost

The Department of Defense bears the administrative cost of collecting premiums and tracking coverage. DOD sent initial funding to the VA in the amount of \$28 million, broken down by the estimated cost per Service for program startup costs. Because the program had not begun to collect premiums from members, this amount was needed to provide payment for prospective cases that were expected in the first year. In addition, a \$5.7 million monthly payment was sent to VA for the Services' share of TSGLI extra hazard reimbursements, the additional amount, over and above the amount collected through premiums from members due to the increased injuries from conflict. This monthly payment was temporarily suspended in April 2006 because the amount on hand is sufficient to pay current TSGLI claims.

Delivery of Benefits

The Servicemember is the beneficiary of TSGLI. Although the member may not name someone other than himself or herself as the TSGLI beneficiary, if the member is legally incapacitated, the benefit is paid to his or her guardian or attorney-in-fact. The member may choose the method of payment from three choices: (1) Electronic Funds Transfer (EFT), in which the TSGLI payment is electronically credited to the bank account specified by the Servicemember, (2) An interest-bearing checking account, in which the Servicemember receives a checkbook that gives the member ready access to the money, or (3) A Check, in which the Servicemember's guardian or attorney-in-fact receives a single check on behalf of the Servicemember for the full TSGLI benefit payable. This option is available only to the Servicemember's guardian or attorney-in-fact, if one is needed. The Department is extremely pleased with the responsiveness of OSGLI, which typically pays certified claims within 48 hours of receipt.

The Appeals Process

Each Service is tasked with providing policy and implementation guidance for the appeals process. Although each Service maintains a unique structure for resolving appeals, the process is similar. A member who has received a letter from OSGLI indicating that their claim has been denied is provided contact information for the appeals process. The letter will indicate the reasons for denial and the method in which to appeal the decision. It is the member's responsibility to compile the documentation for an appeal. The Service board for appeals makes a final determination and notifies each recipient of the outcome. Each Service uses an existing board to act on appeals. The Army for example uses the same board that is used for combat-related special compensation determinations.

Uniform Application

One of the most significant goals was ensuring uniform application of standards in the TSGLI eligibility certification process. That is, if a member of the Air Force receives a benefit under TSGLI for an incurred traumatic injury, a member of the Army experiencing a similar injury should receive the same benefit. To ensure this uniformity of application, VA, OSGLI and DOD established a joint working group to resolve rules for application of the standards for the schedule of payments for traumatic losses. This group has continued to hold weekly conference calls to discuss needed improvements to the program. Additionally, VA and OSGLI have provided training, most recently sponsored by the Army on July 25, 2006, for all Service certification officers. Regular communication among the Service certification officials, Office of the Secretary of Defense, OSGLI, and VA has helped ensure a uniform certification outcome among the Services.

Numbers of Claims

Estimates of retroactive claimants from OEF/OIF were approximately 2,100 members. This estimate was derived by examining the total number of casualties during the period (approximately 6,300) and estimating a high percentage of recipients among members who were victims of explosives or burns, or listed as amputees. A total of 2,261 retroactive claims have been approved as of August 25, 2006. Estimates for prospective claimants were approximately 1,000 members per year, which was based on the total number of casualties reported on an annual basis. A total of 403 claims under the prospective program have been paid as of late August, 2006, versus our estimate of 1000.

Payment Timelines

The most significant factor in determining the amount of time that payment takes to reach an individual member is the type of injury sustained. Whereas injuries that result in amputation may be submitted, certified, and paid within 7 days or less, injuries that document loss of Activities of Daily Living (ADL) may take up to 45 days or more because these injuries require observation over a period of time before a physician can verify the extent of the injury. Many claims, especially those for loss of ADLs, typically include several pages of documentation. Service personnel who certify the claims diligently examine each claim to ensure that potential recipients are correctly paid.

Outstanding Issues—Activities of Daily Living Claims

At the inception of the program, VA, DOD, and OSGLI worked to define the standards for payment of TSGLI benefits based on loss involving the inability to carry out the activities of daily living. Besides members who remained in a coma or suffered a traumatic brain injury, some members, after suffering a traumatic event, remained hospitalized without the ability to take care of daily basic functions. Using a term understood within the medical profession, we worked to define the limits for the loss of activities of daily living to address members who may have suffered no visible external injuries, yet were unable to care for themselves, losing the ability to perform two of six typical functions: bathing, eating, toileting, transferring, dressing, or continence.

This category of loss continues to lead all others in number of claims and compensation amounts. It is also the most difficult in which to find evidentiary support for the retroactive cases. Further, because this category was not anticipated when care was given, many treatment records do not contain the necessary documentation to support the claims. In cases where there is little or no evidence to support the claim for the loss of Activities of Daily Living for an extended period, medical personnel must examine treatment records and estimate the length of ADL loss for claim certification making these cases more manpower intensive.

CONCLUSION

All in all, the TSGLI has proven to be a beneficial program. The structure of the program provides strength and agility. The Department of Defense, as the employer client, relies on VA as the Government provider to keep the program operationally sound. The contractor consistently brings to the program the most modern and attractive features available to the insurance industry. This makes for a progressive benefit that keeps getting better without increasing the insurance premium our troops pay. Overall, the TSGLI program structure has proven to be one of exceptional strength that keeps the program among the best in the business.

We are very appreciative of the traumatic injury insurance provided for our Servicemen and women in uniform by Congress. Thank you for the opportunity to discuss this critical program that is so important to our dedicated young men and women in uniform today.

 MANDATORY SCREENING FOR TRAUMATIC BRAIN INJURY AND POST TRAUMATIC STRESS DISORDER

The Department proactively evaluates the health of all servicemembers following deployments. Because of the Department's great concern for the post deployment health of servicemembers, all of our returning warriors receive a post deployment health assessment and reassessment. Most major health issues are found and taken care of at the time of the assessments.

There is currently no validated screening instrument for Traumatic Brain Injury (TBI) to use on those returning from combat theaters. Several questionnaires done by or at the request of unit commanders for returning servicemembers have asked if they ever lost consciousness and/or "saw stars." About ten percent of responders said they had.

Because the Armed Forces Epidemiology Board (AFEB) recently recommended post deployment screening, the Department of Defense (DOD) is developing such a tool for rapid deployment. The Army has begun a process to identify servicemembers at the time that a possible TBI (head injury or blast exposure) occurs and to assess the servicemembers' mental functions in order to determine their ability to continue with their mission. This was based on an initial document produced by the Defense and Veterans Brain Injury Center (DVBIC), which was simplified for easier use in the field by medics. The Marine Corps is also working on such a document; however,

the Marines are working to refine their guidance based on feedback from providers in-theater.

The goal of these processes is to identify those who have suffered a TBI; to decide whether or not they need further evaluation at a higher level of care; and, to provide guidance as to whether they can continue combat or other operations that may expose them to another potential TBI, or that may require cognitive function or reflexes that may have temporarily degraded as a result of TBI. This process also provides medical documentation for future evaluations.

The AFEB further recommended that DOD would benefit from a systematic policy-driven approach to the prevention, medical assessment, and management of TBI, and that its primary focus should be on in-theater TBI prevention, assessment, and medical management. A navy-sponsored conference on hospital-based treatment and rehabilitation, including outpatient rehabilitation, convened September 18–20, 2006. A DVBIC-sponsored conference on first responders and in-theater management of TBI will convene mid-November 2006. These sessions will facilitate the policy driven approach as recommended by the AFEB, and address the additional AFEB recommendations, including implementation of a pre-deployment baseline screening tool to provide a measure against which post deployment or post incident evaluations can be compared.

In addition, Post Deployment Health Assessments contain four questions that ask about symptoms which may indicate the need for further medical evaluation for Post Traumatic Stress Disorder. Those same questions are used on the Post Deployment Health Reassessment which is done three to six months after individuals return from theater.

Chairman CRAIG. Mike, thank you very much.
Now, let us turn to you, Tom. Please proceed.

STATEMENT OF THOMAS LASTOWKA, DIRECTOR, INSURANCE SERVICE, VETERANS BENEFITS ADMINISTRATION, DEPARTMENT OF VETERANS AFFAIRS; ACCOMPANIED BY STEVE WURTZ, DEPUTY ASSISTANT DIRECTOR, INSURANCE SERVICE

Mr. LASTOWKA. Thank you, Mr. Chairman.

Before I begin testimony, thank you very much for the research you must have done on this name. Not many people get it right on the first try.

Chairman CRAIG. I struggle with correct pronunciations of names, and so my staff assists me phonetically. In that form I am a little handicapped.

Mr. LASTOWKA. Thank you, Mr. Chairman, for the privilege of appearing today before this Committee. I do appreciate the opportunity to inform the Committee of what I believe was a very successful implementation of the Traumatic Injury Protection Program under the servicemembers group life insurance program, which I will henceforth refer to as TSGLI.

I will summarize my testimony and would ask that the complete written testimony be included in the record.

Chairman CRAIG. Without objection.

Mr. LASTOWKA. TSGLI provides severely injured servicemembers who suffer certain losses as a direct result of traumatic injury with a monetary assistance to help them and their families through what is often a long, arduous, and financially difficult period of treatment and rehabilitation.

On May 11, 2005, the President signed Public Law 109–13, which established the TSGLI program, effective December 1, 2005. VA and the Department of Defense had less than 180 days to finalize the program design and certification process, publish regulations and provide outreach training to servicemembers and vet-

erans. VA and DOD recognize the need to ensure that implementation was given the highest priority and was visible. Therefore, it was included as an initiative to the VA/DOD Joint Executive Council, and we have to regularly brief that Council on our progress.

Our goal was to have the first TSGLI payments in the hands of eligible members prior to the December 2005 holidays. I am happy to report that we brought this to fruition, working with the staffs of the committees interested parties, such as Wounded Warriors. We were able to get input and VA published the TSGLI interim final regulation on December 22, and began payments simultaneously.

TSGLI is automatic for all members who have regular SGLI coverage. Based on comments during the interim final regulation, we are looking to amend the final regulation to include a 2-year eligibility period from date of injury to date of loss.

The law identifies some disabilities for which payments should be made, but also provides that the Secretary shall proscribe other conditions by regulation. The legislation recognized the severity of traumatic brain injury, which was a listed disability, and defined that severity as the loss of the ability to perform certain activities of daily living.

In the regulations, we used the same definition of severity to define other severe injuries not usually covered by dismemberment insurance. The loss of the ability to perform in ADL is not a concept normally associated with traumatic injury insurance, but rather associated with long-term care. The ADL standards tend to be restrictive. Since TSGLI losses due to ADLs are meant to cover members, we believe that the intent of the law requires that ADL standards be set high so that members sustaining the loss equivalent in severity, and I will say emotionally, to an amputation or a similar loss would be met.

Members must show through medical evidence that they were completely unable to perform certain activities without the assistance of other persons or equipment. The factor in setting the ADL standard high was that Congress contemplated that the TSGLI premium cover all claims that would be normally associated with a civilian population.

As of Friday, September 1, we have paid 2,697 claims for a total of \$166 million. The timeliness of claims payment is important because the program's primary goal is to get payments to eligible servicemembers as quickly as possible. Generally, we are taking between 50 and 60 days from the date of injury, not the date of loss, and this can be broken down, generally, to an average of 30 days for the member to submit the application. This may be because of ADLs that have to extend up to 30 days, or that the dismemberment does not take place immediately upon entrance into the hospital. After the application is admitted, generally the DOD is completing the application process within 14 to 21 days, and Prudential within 2 to 3 days.

We have conducted a review of denied claims. I am happy to say that the insurance personnel reviewing denied claims concluded that they would have not allowed one claim, based upon their review, that was denied by the military. We believe the outreach to reservists is now the greatest because they have less contact and

there may be some confusion about whether it should cover non-combat injuries, which, in fact, the law does allow.

Mr. Chairman, Committee Members, we believe the implementation has been successful. We believe the goals and the intent of the programs are being met. We will evaluate it in the coming year to see if there are other recommendations that we would make. Thank you, Sir.

[The prepared statement of Mr. Lastowka follows:]

PREPARED STATEMENT OF THOMAS LASTOWKA, DIRECTOR, INSURANCE SERVICE,
VETERANS BENEFITS ADMINISTRATION, DEPARTMENT OF VETERANS AFFAIRS

Mr. Chairman and Members of the Committee, I appreciate the opportunity to appear before you today to discuss the new Servicemembers' Group Life Insurance benefit, Traumatic Injury Protection, referred to as "TSGLI." I will specifically address the implementation and management of the program, the benefits provided, and the impact on the lives of servicemembers.

TSGLI is designed to provide severely injured servicemembers who suffer certain losses as a direct result of a traumatic injury with monetary assistance to help the servicemembers and their families through what is often a long and arduous treatment and rehabilitation period. In many instances, the family must physically relocate to be with the injured servicemember and provide needed emotional support during the treatment and recovery period. Relocating an entire family is disruptive and can result in economic hardship brought on by new and/or additional living expenses, and in some cases, the loss of a job. TSGLI helps to lessen that economic burden by providing immediate financial relief.

TSGLI coverage is automatic for servicemembers who are insured under SGLI and cannot be declined separately. This criterion is normal commercial practice—the servicemember must have the basic insurance coverage in order to obtain a rider on that coverage. Servicemembers pay \$1.00 per month for TSGLI coverage, in addition to their SGLI premium.

TSGLI is broadly modeled after commercial Accidental Death and Dismemberment (AD&D) insurance coverage. AD&D coverage provides benefits if the insured suffers a physical loss (dismemberment) or dies due to an accident (accidental death). TSGLI is modeled after the "dismemberment" portion of AD&D coverage, although it deviates in some respects from the commercial AD&D model to accommodate the unique needs of military personnel.

In the legislation, Congress sets forth certain losses that must be covered by the TSGLI program as well as the range of payment amounts, from \$25,000 to \$100,000. The covered losses designated by statute are:

- Total and permanent loss of sight.
- Loss of a hand or foot by severance at or above the wrist or ankle.
- Total and permanent loss of speech.
- Total and permanent loss of hearing in both ears.
- Loss of thumb and index finger of the same hand by severance at or above the metacarpophalangeal joints.
- Quadriplegia, paraplegia, or hemiplegia.
- Burns greater than second degree, covering 30 percent of the body or 30 percent of the face.
- Coma or the inability to carry out the activities of daily living resulting from traumatic brain injury.

The law also provides VA with the authority to prescribe by regulation other losses to be covered by TSGLI. Working with the Department of Defense (DOD), VA added a number of other losses to ensure the program covers as many deserving severely injured servicemembers as possible. The losses that VA added by regulation are:

- Loss of both thumbs.
- Loss of sight in one eye or loss of hearing in one ear.
- Loss of the ability to perform of the activities of daily living (ADL) due to a loss not covered by the legislation.

VA, in consultation with DOD, determined the payment amount for each scheduled loss and combinations of scheduled losses, within the range specified by statute. As a basic rule, if a servicemember suffers two or more losses, the payment is \$100,000. For losses where time is the major factor, such as coma, brain injury, and limitations on activities of daily living (ADL), payments are based on the length of time the condition or limitation exists. For example, a servicemember in a coma is

paid in \$25,000 increments: \$25,000 after 15 days in a coma; an additional \$25,000 at 30 days; an additional \$25,000 at 60 days; and the last increment of \$25,000 at 90 days. A Schedule of Losses providing the covered losses and the payment amounts is attached.

Public Law 109-13, which established the TSGLI program, was signed into law on May 11, 2005, with an effective date of December 1, 2005. VA and DOD had less than 180 days to implement the program, including developing a certification process, publishing an interim final regulation, and conducting outreach to eligible members and veterans. VA published the TSGLI interim final regulation on December 22, 2005, 3 weeks after the TSGLI program effective date of December 1, 2005, and began issuing payments simultaneously with publication of the rule. We are currently working on the final regulation. We received a comment from the Wounded Warrior Project suggesting that the interim final rule be amended to increase the number of days in which a scheduled loss must occur from 365 days to 2 years. We are evaluating this suggestion as we prepare the final rule.

For a servicemember to be eligible for a TSGLI payment, the following criteria must be met:

1. The servicemember must be covered by SGLI.
2. The servicemember must suffer a loss that is a direct result of a traumatic injury.
3. The servicemember must suffer the traumatic injury before midnight on the date of the termination of the servicemember's duty status in the uniformed services that establishes eligibility for SGLI.
4. Under the interim final rule, the servicemember must suffer the loss within 365 days of the traumatic injury.
5. Under the interim final regulation, the servicemember must survive for at least seven full days from the date of the traumatic injury.

Public Law 109-13 also provided TSGLI coverage retroactively to servicemembers who experienced a traumatic injury between October 7, 2001, and the effective date of the statute, i.e., December 1, 2005, if their qualifying loss was a direct result of injuries incurred in Operation Enduring Freedom (OEF) or Operation Iraqi Freedom (OIF). Public Law 109-233 repealed this provision and instead provides retroactive TSGLI coverage for servicemembers who during the period beginning on October 7, 2001, and ending at the close of November 30, 2005, sustained a traumatic injury resulting in a scheduled loss if that loss was a direct result of a traumatic injury incurred in the theater of operations for OEF or OIF.

In determining the regulatory exclusions to coverage, we looked both to the commercial model and the plain language of the statute. We excluded injuries that result from illegal behavior by the servicemember or self-inflicted trauma. TSGLI is not payable for injuries caused by the following:

1. Attempted suicide.
2. Intentionally self-inflicted injury or an attempt to inflict such injury.
3. Medical or surgical treatment of an illness or disease.
4. The servicemembers' willful use of an illegal or controlled substance, unless administered or consumed on the advice of a medical doctor.

In addition, TSGLI does not cover injuries sustained while committing, or attempting to commit, a felony. Nor does it cover illnesses or diseases, physical or mental in nature, other than a pyogenic infection (pus forming, often secondary to a wound) or physical illness or disease caused by a biological, chemical, or radiological weapon, or accidental ingestion of a contaminated substance.

TSGLI allows payments for scheduled losses resulting from multiple, unrelated traumatic events, up to \$100,000. However, we do not believe that Congress intended for a servicemember to receive more than the statutory maximum TSGLI benefit of \$100,000 as a result of scheduled losses due to each of several traumatic events occurring within a short period of time. Also, VA must manage the TSGLI program on the basis of sound actuarial principles. Congress has expressed its understanding that the premium for TSGLI coverage will be minimal. In accordance with that charge, we have concluded that, in the case of multiple traumatic events occurring within a 7-day period, it is appropriate to limit recovery to the statutory maximum allowed for a single traumatic event, regardless of whether the losses come from multiple traumatic events within a 7-day period. We have concluded that a period of 7 days is appropriate to properly balance the need for actuarial soundness and the interests of providing adequate coverage for traumatic events separated by a greater amount of time. A member could incur a second scheduled loss virtually simultaneously with the initial scheduled loss. If the benefit for the initial scheduled loss were for \$100,000, we do not believe Congress intended an additional payment, beyond the maximum provided by law.

VA has developed procedures for filing and processing an application for benefits that facilitate a fast and thorough review by the uniformed services. Each uniformed service has an identified office to handle TSGLI claims. VA and DOD jointly developed a claims procedure and certification form. The procedure is as follows:

1. The servicemember obtains a copy of the TSGLI Certification of Traumatic Injury Protection Form. It has three parts, A, B, and C.

2. The servicemember completes Part A with basic identifying information and banking information if payment by electronic funds transfer is elected. Part A is submitted to the servicemember's uniformed service office.

3. The servicemember gives Part B to a medical professional to document the qualifying loss. The medical professional returns Part B to the servicemember or directly to the uniformed service office handling the servicemember's TSGLI claim.

4. The uniformed service office reviews the claim and makes the decision on whether the servicemember is eligible for the benefit. The decision is documented on Part C of the TSGLI Certification Form.

5. The uniformed service office sends the entire form to Office of Servicemembers' Group Life Insurance (OSGLI) to make the benefit payment and advise the servicemember of the award, or send the servicemember a letter informing the servicemember of the denial.

The servicemember has the right to appeal the TSGLI decision. All appeals, except those based on SGLI coverage, go through a DOD appeals process. Appeals related to the servicemember's SGLI coverage are processed by OSGLI.

One of VA's main roles in the implementation of TSGLI is the development of procedures and issuance of guidance for handling claims to the branches of service. A detailed TSGLI Procedural Guide was developed for all uniformed service TSGLI points of contact. The guide explains all aspects of TSGLI, including premiums, coverage, exclusions, and other eligibility criteria. It also provides the uniformed service contacts with information about the medical standards for covered losses and how to complete the TSGLI Certification Form.

In accordance with the legislation, VA has taken the lead on decisions relating to program policies and standards. On issues of disagreement on policies affecting certification decisions, VA makes the final determination with input from all parties. In contrast, VA has left the internal procedures for claims processing to the uniformed services to handle as they see fit. This mirrors the process for handling SGLI death benefit claims. VA and OSGLI have provided training to the branches of the uniformed services.

The Under Secretary for Benefits has directed all VA Regional Office Seamless Transition Coordinators to personally contact severely injured veterans from OEF and OIF to inform them about the TSGLI benefit. VA and OSGLI continue to identify potentially eligible servicemembers through outreach efforts to disabled veterans and analysis of news stories naming injured servicemembers. Names of potentially eligible servicemembers are provided to the uniformed services' TSGLI office for outreach.

The ADL associated with TSGLI were identified in the program's enacting legislation. The activities are bathing, dressing, eating, toileting, continence, and transferring. To qualify for a benefit under TSGLI involving ADL, a servicemember must lose the ability to perform two of these six ADL for specified periods of time. For brain injuries, a servicemember must prove inability to perform two of these six activities for a minimum of 15 days up to a maximum of 90 days. For other traumatic injuries not related to a brain injury, a servicemember must prove inability to perform two of these six activities for a minimum of 30 days up to a maximum of 120 days.

In the commercial insurance industry, AD&D policies do not cover the loss of the ability to perform ADL. Therefore, to obtain a model for use in the TSGLI program as the law required, we looked to long-term care insurance standards. In long-term care insurance, the policies require that the insured be unable to perform ADL for an extended period of time in order to qualify for coverage. In recognition of the intent of Congress that TSGLI premiums remain low, it follows that TSGLI ADL standards must be restrictive so that premiums can remain at reasonable rate. In addition, we believe that ADL standards should be set at a high enough level so that only servicemembers sustaining a loss equal in severity to an amputation or other loss covered by the TSGLI program qualify for benefits.

Therefore, the TSGLI Program requires that a servicemember be "unable to perform the activities of daily living" for a period of time ranging from 15 consecutive days to 120 consecutive days. Also, a servicemember must show through medical evidence that they are completely unable to perform an activity without assistance of another person, adaptive equipment, or accommodating behavior.

There are some indications that servicemembers and physicians do not fully understand these ADL standards. The uniformed services are working to educate military medical professionals through onsite training, materials, and attendance at conferences. We believe continuing education will increase the understanding of the ADL standards and improve the quality of claims.

It is often difficult to establish entitlement to retroactive TSGLI benefits based on a loss of an ADL. An assessment of the servicemember's current medical condition may not establish the date from which they were first unable to perform an ADL. We understand it can be difficult to contact the original treating physician or obtain documentation of past treatment. In spite of this, ADL remains the most frequent loss paid for both retroactive and post-December 1 claims.

In these types of cases, the uniformed services are using the same procedure to review the medical evidence. The uniformed services will contact the certifying medical professional and provide them with an explanation of the ADL standards or other loss standards. In many cases, the medical professional revises his/her initial comments. If the medical professional still stands by the initial statement, the uniformed service staff has a military medical physician review the claim and determine if the medical evidence supports the medical professional's statement. If so, the claim is certified payable, and if not, it is certified denied.

I would now like to provide you with some current statistics on TSGLI claims. The average amount of a TSGLI payment is \$62,000. As of Friday, August 25, 2006, the TSGLI Program has paid:

- 2,261 retroactive claims totaling of over \$143.5 million.
- 403 claims since the effective date (December 1, 2005) for a total of over \$21 million.

In the past 2 months, we have seen a decrease in retroactive claims and an increase in post-December 1, 2005, claims. This is a logical trend that we expect to continue.

Claims for losses sustained on or after December 1, 2005, are paid on average within 50 to 60 days of injury. This time period is broken down as follows:

- 30 days for the servicemember to be stabilized and file an application.
- 14-21 days for the uniformed service's review.
- 2.3 days, on average, for payment processing at OSGLI.

As of Friday, August 25, 2006, the TSGLI Program has denied 1,601 retroactive claims and 248 post-December 1 claims. Earlier this summer, VA's Insurance Service staff reviewed a sample of denied claims and agreed with the decisions rendered by the uniformed services on these claims.

The two main reasons for denial were the medical evidence did not support the claimed loss, or the servicemember did not claim or have sufficient ADL limitations to qualify for the benefit. These denial reasons point to the fact that we need to continue educating physicians and potential claimants on the eligibility criteria for TSGLI, especially based on ADL. In addition, the cases reviewed showed no pattern based on the medical facility where the servicemember was treated or based on the medical doctor certifying the claim.

We plan to conduct another review of denied claims next year after the new Certification Form has been in circulation for a number of months. We believe the new form, which has been enhanced to include questions pertaining to the medical standards of the program and an ADL questionnaire, will cut down on claims from clearly ineligible servicemembers.

As we approach the 1-year mark since the effective date of the program, we are planning a comprehensive evaluation of the TSGLI Program. This evaluation will include a review of current procedures at the uniformed services TSGLI offices as well as an analysis of program standards and policies. Through this evaluation, we hope to be able to identify areas of improvement.

We are also considering whether to provide by regulation a time limitation on filing a claim for TSGLI. Currently, the program has no time limit for filing claims. This is problematic as it represents a liability against the program that we are unable to anticipate and budget for actuarially. In addition, with no claim filing time limit, servicemembers are able to apply years from now for the benefit and will face the difficulty of obtaining medical evidence proving the loss dates back to a traumatic injury that occurred in service.

Mr. Chairman and Committee Members, it has been an honor and privilege to be involved in the implementation of the TSGLI benefit. I would like to recognize and thank the Committee for your significant efforts in creating this benefit for our Nation's servicemembers. I am happy to report that the implementation of TSGLI has been extremely successful. I believe the goals and intent of the program are being met. We will continue to evaluate the program to assure that it operates to the highest standards so that our servicemembers are well served.

TSGLI Schedule of Losses

If the loss is	Then the amount that will be paid is:
1. Total and permanent loss of sight in both eyes	\$100,000
2. Total and permanent loss of hearing in both ears	\$100,000
3. Loss of both hands at or above wrist	\$100,000
4. Loss of both feet at or above ankle	\$100,000
5. Quadriplegia	\$100,000
6. Hemiplegia	\$100,000
7. Paraplegia	\$100,000
8. 3rd degree or worse burns, covering 30 percent of the body or 30 percent of the face.	\$100,000
9. Loss of one hand at or above wrist and one foot at or above ankle.	\$100,000.
10. Loss of one hand at or above wrist and total and permanent loss of sight in one eye.	\$100,000
11. Loss of one foot at or above ankle and total and permanent loss of sight in one eye.	\$100,000
12. Total and permanent loss of speech and total and permanent loss of hearing in one ear.	\$75,000
13. Loss of one hand at or above wrist and total and permanent loss of speech.	\$100,000
14. Loss of one hand at or above wrist and total and permanent loss of hearing in one ear.	\$75,000
15. Loss of one hand at or above wrist and loss of thumb and index finger of other hand.	\$100,000
16. Loss of one foot at or above ankle and total and permanent loss of speech.	\$100,000
17. Loss of one foot at or above ankle and total and permanent loss of hearing in one ear.	\$75,000
18. Loss of one foot at or above ankle and loss of thumb and index finger of same hand.	\$100,000
19. Total and permanent loss of sight in one eye and total and permanent loss of speech.	\$100,000
20. Total and permanent loss of sight in one eye and total and permanent loss of hearing in one ear.	\$75,000
21. Total and permanent loss of sight in one eye and loss of thumb and index finger of same hand.	\$100,000
22. Total and permanent loss of thumb of both hands, regardless of the loss of any other digits.	\$100,000
23. Total and permanent loss of speech and loss of thumb and index finger of same hand.	\$100,000
24. Total and permanent loss of hearing in one ear and loss of thumb and index finger of same hand.	\$75,000
25. Loss of one hand at or above wrist and coma	\$50,000 for loss of hand plus the amount paid for coma as noted in Item 37 of this schedule up to a combined maximum of \$100,000.
26. Loss of one foot at or above ankle and coma	\$50,000 for loss of foot plus the amount paid for coma as noted in Item 37 of this schedule up to a combined maximum of \$100,000.
27. Total and permanent loss of speech and coma	\$50,000 for total and permanent loss of speech plus the amount paid for coma as noted in Item 37 of this schedule up to a combined maximum of \$100,000.
28. Total and permanent loss of sight in one eye and coma	\$50,000 for total and permanent loss of sight in one eye plus the amount paid for coma as noted in Item 37 of this schedule up to a combined maximum of \$100,000.
29. Total and permanent loss of hearing in one ear and coma.	\$25,000 for total and permanent loss of hearing in one ear plus the amount paid for coma as noted in Item 37 of this schedule up to a combined maximum of \$100,000.
30. Loss of thumb and index finger of same hand and coma	\$50,000 for loss of thumb and index finger of the same hand plus the amount paid for coma as noted in Item 37 of this schedule up to a combined maximum of \$100,000.
31. Total and permanent loss of sight in one eye and inability to carry out activities of daily living due to traumatic brain injury.	\$50,000 for loss of sight in one eye plus the amount paid for the inability to carry out activities of daily living due to traumatic brain injury as noted in Item 37 of this schedule up to a combined maximum of \$100,000.

TSGLI Schedule of Losses—Continued

If the loss is	Then the amount that will be paid is:
32. Loss of one hand at or above wrist and inability to carry out activities of daily living due to traumatic brain injury.	\$50,000 for loss of hand plus the amount paid for the inability to carry out activities of daily living due to traumatic brain injury as noted in Item 37 of this schedule up to a combined maximum of \$100,000.
33. Loss of one foot at or above ankle and inability to carry out activities of daily living due to traumatic brain injury.	\$50,000 for loss of foot plus the amount paid for the inability to carry out activities of daily living due to traumatic brain injury as noted in Item 37 of this schedule up to a combined maximum of \$100,000.
34. Loss of thumb and index finger of same hand and inability to carry out activities of daily living due to traumatic brain injury.	\$50,000 for loss of thumb and index finger plus the amount paid for the inability to carry out activities of daily living due to traumatic brain injury as noted in Item 37 of this schedule up to a combined maximum of \$100,000.
35. Total and permanent loss of hearing in one ear and inability to carry out activities of daily living due to traumatic brain injury.	\$25,000 for total and permanent loss of hearing in one ear plus the amount paid for the inability to carry out activities of daily living due to traumatic brain injury as noted in Item 37 of this schedule up to a combined maximum of \$100,000.
36. Total and permanent loss of speech and inability to carry out activities of daily living due to traumatic brain injury.	\$50,000 for total and permanent loss of speech plus the amount paid for the inability to carry out activities of daily living due to traumatic brain injury as noted in Item 37 of this schedule up to a combined maximum of \$100,000.
37. Coma from traumatic injury and/or the inability to carry out activities of daily living due to traumatic brain injury. Note 1: Benefits will not be paid under this schedule for concurrent conditions of coma and traumatic brain injury. Note 2: Duration of coma includes the day of onset of the coma and the day when the member recovers from coma. Note 3: Duration of the inability to carry out activities of daily living due to traumatic brain injury includes the day of the onset of the inability to carry out activities of daily living and the day the member once again can carry out activities of daily living. Benefits can be paid for both conditions only if experienced consecutively, not concurrently.	At 15th consecutive day in a coma, and/or the inability to carry out activities of daily living—\$25,000. At 30th consecutive day in a coma, and/or the inability to carry out activities of daily living—Additional \$25,000. At 60th consecutive day in a coma, and/or the inability to carry out activities of daily living—Additional \$25,000. At 90th consecutive day in a coma, and/or the inability to carry out activities of daily living—Additional \$25,000.
38. Total and permanent loss of speech	\$50,000
39. Loss of one hand at or above wrist	\$50,000
40. Loss of one foot at or above ankle	\$50,000
41. Total and permanent loss of sight in one eye	\$50,000
42. Loss of thumb and index finger of same hand	\$50,000
43. Total and permanent loss of hearing in one ear	\$25,000
44. The inability to carry out activities of daily living due to loss directly resulting from a traumatic injury other than an injury to the brain.	At 30th consecutive day of the inability to carry out activities of daily living—\$25,000.
Note: Duration of the inability to carry out activities of daily living includes the day of onset of the inability to carry out activities of daily living and the day when the member can once again carry out activities of daily living.	At 60th consecutive day of the inability to carry out activities of daily living—Additional \$25,000.
	At 90th consecutive day of the inability to carry out activities of daily living—Additional \$25,000.
	At 120th consecutive day of the inability to carry out activities of daily living—Additional \$25,000.

Chairman CRAIG. Thank you very much, Tom.

Let me first recognize Senator Thune who has joined us. He is another original cosponsor of the legislation.

John, why don't we allow you any opening comments you want to make with the questions you would ask at the time that we get there. Is that OK?

Senator THUNE. That is fine.

Chairman CRAIG. Let me now proceed with questions, and then we will go through in that order, because I know that Senator Akaka needs to go to another hearing, so we will get to you quickly, Danny.

Let me ask generic questions of all of you who are before us, because clearly we are in that stage of looking at it, wanting to know if it is working the way it was intended to. I have laid out the three principles that I thought were critically important in the concept of the legislation and the legislative intent before.

Right now, payments are being received within 50 to 60 days of when the traumatic injury occurs. Do you expect processing time to improve as the military services and the VA gain more experience with this benefit? This question is to both of you, Mike and Tom, and also to you, Steve, if you wish to participate.

Mr. DOMINGUEZ. Sir, I would say yes. As we get more experience, as we streamline the process, processing time should improve. There is a big piece in the front end that is under the control of medical personnel. As Tom was saying, you may not suffer a loss because the medicine is so good and these guys work so hard to restore people to health that from the time of injury to the time that they actually incur a covered loss could be a long time.

Also, in the initial stages, this is not a first priority for many families. So, that time up to when they get the certification—they fill out the form—there are a lot of things going on in there. We have advocates, patient advocates and case managers, working with the family. When they are ready to move on that, they will be moving. The two to 3 weeks after that we need to scrunch down in the DOD.

I am very pleased with how fast the Veterans' Administration processes it once we get it to them.

Chairman CRAIG. Tom, any comment on that?

Mr. LASTOWKA. Similarly, Sir, I think we generally defer to the medical community and we have VA and DOD personnel at places like Bethesda and Walter Reed. We defer to their judgment on when the families should be approached.

I think that is one place we can look at as we review our first year. We will be looking at that. The adjudicative process—the Army is currently taking, for instance, 12 days. I think that is a reasonable time given the adjudicative process we ask them to do. Certainly, the processing by Prudential in the 3 to 4 days is reasonable.

So, I think there are opportunities. I could not identify what they are right now. I do believe, since we have generally measured from date of injury to date of payment, that 50 to 60 days processing time is probably longer than the date of loss to the date of payment, although I do not have specific statistics on that.

Chairman CRAIG. Certainly, for those of us looking in instead of those who are there, hands-on—medical professionals and families and certification, 50 to 60 days processing time appears and sounds to be, to me, a long time.

Now, has a target processing time been established, and is there a private sector model to use as a benchmark? How are you examining that as it relates to narrowing that window, if possible?

Mr. LASTOWKA. At the moment, I am not aware of a private sector benchmark for, I will say, date of injury to date of adjudication of, basically, long-term care insurance. The Insurance Service, generally, we look to customer service and we measure customer com-

plaints. I am not aware of servicemember complaints on the time window. So, that would tend to make me feel good about that.

Again, I recognize with you that there is some control between that 30 and 60 days that we may be able to identify, and we will look to do that as we start reviewing the program as the first anniversary date comes up.

Chairman CRAIG. OK.

Mr. DOMINGUEZ. Senator, if I might. The average includes things that are quite extraordinary, like the 1 year it took because the medical personnel were trying to save the leg of this injured servicemember. So that goes into these averages.

The loss of activities of daily living require the physicians to observe for a period of time before they state that this has been a covered or eligible loss. So that goes in. So, when we look at these benchmarks, we really need to look at them in that front end piece by the nature of the injury.

Clearly, as I said, I want to get better at the middle time where we are doing the adjudication certification process and streamline that, and we will be aggressive in doing that.

Chairman CRAIG. Thank you very much. Let me turn to Senator Akaka.

Danny.

Senator AKAKA. Thank you very much, Mr. Chairman.

Mr. Lastowka, what would the impact on your office be if the law was amended to retroactively make all traumatically injured servicemembers eligible for traumatic injury protection?

Mr. LASTOWKA. Sir, I am sorry, I do not understand—

Senator AKAKA. What would be the impact on your office if the law was amended to retroactively make all traumatically injured servicemembers eligible for traumatic injury protection?

Mr. LASTOWKA. I think the impact would be more on the program than the office, and that would be financial, because obviously nobody has been paying premiums, if you go retroactive to the first Persian Gulf War or something like that.

I would have to defer to DOD because that would be their appropriate funds. Certainly, it would not impact the TSGLI or SGLI funding because the retroactive is paid for out of appropriated funds.

One impact I could see as a difficulty would be to adjudicate such claims several years after things had taken place. The difficulty to get documentation depends on how far back that retroactive period would go. If it went back 10 years, 20 years, just the ability to determine the condition of servicemembers within a year or two of their traumatic injury would be very difficult.

Senator AKAKA. What kind of difficulty would there be in reaching back records to make that determination of eligibility?

Mr. LASTOWKA. A lot of the disabilities, including those that depend on examination of the activities of daily living, I do not think that you would find that documentation existing in medical records. I do not think there would be many treating physicians that are no longer living. So, to be able to compile what activities of daily living a person was or was not able to perform 10 years ago, I do not think you would necessarily find that in the contemporaneous medical records.

Although I certainly have not looked at that. Certainly, in the commercial model, with our recommendation to go to the 2 years, we would be at close to the commercial limit of what they normally would do under an insurance program.

Senator AKAKA. Mr. Dominguez, is there an inequity among our wounded servicemembers regarding the application of retroactive payments only to those injured during OIF and OEF?

Mr. DOMINGUEZ. Senator, I would say no. From the following point of view that the program that is set up is an insurance program, where you pay a dollar to buy this insurance. And then, if you are subsequently injured then you get this coverage.

The Congress extended or made that retroactive without anyone having paid those premiums without having purchased the insurance because of the compelling and unique circumstance of being at war. I think that was a noble and a just thing to do for the people who were exposed to that very unique risk. And it was their sacrifice in their wartime injuries that, as Senator Craig mentioned earlier, brought this issue to the fore.

So, I am very comfortable with the distinction made by the Congress in the way it structured the retroactive payments.

Senator AKAKA. Thank you very much, Mr. Chairman. My time is almost up.

Chairman CRAIG. Thank you, Danny.

Senator MURRAY.

Senator MURRAY. Yes. In my opening statement I talked about how early detection and screening for traumatic brain injury and PTSD will decrease the disabilities of returning servicemembers. So, I want to go back and ask why we are not having mandatory screening for both brain injury and PTSD.

Mr. DOMINGUEZ. Senator, I am, unfortunately, unprepared to answer that question today. I would like to take that for the record.

I have very high confidence in the quality of medical care being delivered to our men and women in uniform. I think that the attention that is focused on that and the energy behind it is really quite extraordinary. I do not think that I could sit here and say that our people need something that is not being delivered. My bias would be that if it is necessary, those people in the hospitals are doing it and taking care of people.

On the mandatory screening for everyone, that's a different issue. So, I would like to consult with the physicians and get you an answer.

Senator MURRAY. If you could check on that, and I would also like to know how a mandatory TBI screening upon separation would affect this benefit. If you could do some research and get back to me on that, I would appreciate it.

Mr. DOMINGUEZ. Yes, Ma'am. I would be happy to do that.

Senator MURRAY. All right.

This legislation was meant to provide this benefit to those with traumatic injuries. Is there anybody out there with traumatic injuries that we are missing?

Mr. LASTOWKA. I think VA has conducted extensive outreach, especially at the direction of the Under Secretary for Benefits under our Seamless Transition Program. He asked that we personally

contact any individual that had been identified as severely disabled, but I would never say that anything was 100 percent perfect.

Senator MURRAY. Right.

Mr. LASTOWKA. We do have some concerns, especially where National Guardsmen and reservists are concerned.

Senator MURRAY. Yes. That was my specific question. I wanted to find out what you were doing for Guard and Reserve members. Are you contacting their families so that they know about this benefit? How are we getting the word out to them?

Mr. LASTOWKA. We had a training session, Ma'am, in which we participated with the veterans benefits coordinator for every State and National Guard. We instructed them in that program. We are using publications that cater to the military to place articles concerning very specifically the fact that it is 24/7, not limited to combat. That is the direction that we are going.

If there is a population that we are more likely to miss, it will be those people not on active duty.

Senator MURRAY. Right. I would just really urge you to focus on the Guard and the Reserve, because if anybody is going to be missed, they will be the ones. And continue to work those channels and any others you can to make sure that they and their families know about this.

Mr. DOMINGUEZ. And that, right now, is our focus, Ma'am.

Senator MURRAY. Thank you very much.

Thank you, Mr. Chairman.

Chairman CRAIG. Patty, thank you very much.

Now, let me turn to Senator Thune. Again, John, thank you for joining us.

**OPENING STATEMENT OF HON. JOHN THUNE,
U.S. SENATOR FROM SOUTH DAKOTA**

Senator THUNE. Thank you, Mr. Chairman, and thank you for holding this important hearing to review the effects of the legislation that was enacted to benefit the soldiers who have suffered severe wounds in the line of duty on the War on Terror. I want to welcome our panelists here today and thank you for your oversight of this important program.

I particularly want to recognize Sergeant Keith, who represents the very best—the American ideals of patriotism, service, and sacrifice. He is certainly an inspiration to all of us. Thank you for your service.

I also want to extend a profound debt of gratitude to all of the veterans who have put themselves in harm's way for our country, most particularly to those who have been severely wounded as they faced the enemy.

I was very happy, Mr. Chairman, to cosponsor this measure, and am, obviously, as you are, very interested in learning how our efforts have played out. To date, there are 11 South Dakota servicemembers who have taken advantage of this benefit, and over 2,500 nationwide. Obviously, this is not a partisan issue. No one can disagree that we have to do everything within our power as a government to ensure that these brave soldiers who have sacrificed so much receive every bit of help that they require.

So, again, I want to thank you for holding this hearing and I appreciate the testimony of our witnesses today.

Mr. Chairman, I would simply like to follow up with a question that has sort of been asked in different ways today but I think it is really important, in terms of a benefit like this and just making people aware that it exists and I think the key to measuring whether or not we have been successful in achieving what Congress has set out to do is being able to ascertain whether or not potential beneficiaries know that benefit exists and are able to take full advantage of it.

From what I understand, the outreach efforts that are being made to potential beneficiaries are primarily based on news stories that name soldiers who have been severely injured in OIF or OEF. And I guess the question, again, is—it kind of ties into Senator Murray's line of questioning, too. Is it possible that there are potential beneficiaries that are overlooked by the approach that is being used, and are there ways that we can cast a wider net other than simply researching news stories, in terms of finding out about people who might be able to benefit from this program?

Mr. LASTOWKA. Senator, it is true that we do research every news story that talks about a disabled soldier who may not have gotten the benefit, but there are other efforts that we do use.

In the insurance program, we personally contact every military member who is being discharged with a service rating of 50 percent or greater. Our primary reason for beginning that personal contact was to inform them of the SGLI extension for free insurance for disabled members.

Obviously, the veterans that we are talking to, the veterans who have been discharged, are a target group for TSGLI. So we will also speak to them about TSGLI. I mentioned that the Under Secretary had required that every regional office speak to every identified seriously disabled, under the Seamless Transition Program, to be contacted.

Of course, most of our beneficiaries are in the military. They are on active duty, often showing up at Walter Reed and Bethesda, where we are staffed with people that are very knowledgeable about the program. As I mentioned to Senator Murray, our concern right now is primarily to those people who are not on active duty that may be injured not as a result of active duty, but are paying that premium which would cover their non-active duty case and that is where we are focusing, I will say, publicity and education efforts.

Mr. DOMINGUEZ. Senator, if I might add. I agree that the tough problem will be the Guardsmen and the reservists who are injured in their civilian status. We can work that through the chain of command. We are working that through the chain of command. If someone stops showing up at your selected Reserve unit for drills, you go find out why. If it is because they have been injured, then you know that they are eligible for TSGLI.

The chain of command is important. We use that in the hospitals. In preparation of this hearing, I checked and confirmed that there is a human being in every military treatment facility assigned to every patient with a mission of making sure that patient

knows if they are eligible for TSGLI and to help them fill out the form.

So, as we move prospectively, the chance of us missing someone diminishes. So, to check on the awareness of this, we are incorporating questions about this benefit into our status of forces surveys that we do every year to ask questions and get a sense of what the force is thinking or feeling. So, this benefit will be in that survey this year.

Senator THUNE. And my understanding, too, is that, in the prepared DOD statement, Under Secretary, that there have been like 2,000 denials of the benefit. I know denials are inherently necessary as part of the program, but are there clarifications that we should be making to the law to ensure that the possibility of a mistake in denial is lowered?

Mr. DOMINGUEZ. Sir, let me leap into that first, and then defer to my VA colleagues. I wanted to say, as I mentioned earlier to Senator Craig, this is a superbly crafted piece of legislation. It allows the Veterans' Administration and the DOD pretty much wide latitude to fix any problems that we see. So, I do not see a need for any legislation.

Tom can speak more eloquently to the nature of the denials, but on the positive side, I just told you about the patient advocates assigned to every patient in these military treatment facilities. Were I one of those people, I would make sure that we filled in an application and sent it in regardless of whether I thought it met the criteria. I would let the system decide. I cannot say that is what is happening, but I know that is what I would be doing.

Mr. LASTOWKA. Yes, Senator. On the retroactive period, there was a lot of publicity about TSGLI and potential eligibility even before we established the criteria. I think that, like a lot of insurance policies, people do not necessarily know what they contain until they need them.

I think the large number of denials, honestly, were because of the successful outreach effort where people submitted claims because they were hospitalized and injured while in the military and people were not sure what the criteria were.

Just like Mr. Dominguez says, I would rather have 1,000 people apply for the benefit and be denied than to have two or three not apply, and therefore not get the benefit. I think as general education goes, that may impact the denial rate. On the appeals, we know that there have been, I think, 1,400 approximate appeals of decisions made by DOD, and 17 of them were reversed.

And, as I said, when VA personnel reviewed denied claims we would not have reversed even one of the claims that we reviewed. So, I think the denials are legitimate. I think, as you look across the branches of service, the consistency of the denial rate across branches of services all argue to the fact that we are administering the law as you intended. If anything, it is because people do want to explore whether or not they might be eligible for a benefit, but those people that you intended to get the benefit, I believe, are getting that benefit.

Senator THUNE. Thank you, Mr. Chairman.

Chairman CRAIG. Thank you, John.

Let me continue that line of questioning. While I appreciate you recognizing that, when we crafted this legislation, we gave you flexibility because it was important that it get defined properly to fit. I think Congress knew where we wanted to go, but we did not know quite how to get there. That is where we relied on the experts, the medical professionals, to shape it in. That is why you were given that flexibility.

With that understanding, from your testimony I gather that there is a considerable complexity in resolving some claims for payment. In particular, claims based on limitations of ADL, or activities of daily living. How is that problem being addressed would be my first question. Is there more training of medical professionals responsible for documenting losses of ADLs? Is that an answer? Is there a quality review process to determine whether ADL criteria are consistently and accurately applied?

If you will explore that area with the Committee and for the record I think it would be greatly appreciated.

Mr. LASTOWKA. Senator, Mr. Chairman, obviously, to a layperson, it is easier to understand the concept of an amputation than it is to understand the concept of an activity of daily living.

Chairman CRAIG. Yes.

Mr. LASTOWKA. And so, as you look at that, it is more complexly defined, although it is defined. So, we have focused a lot of time and effort in developing training and guidelines. The guidelines, I believe, are quite objective.

We, with DOD, are developing what we believe to be clear standards to determine ADL and the loss there, and to communicate them. We have been holding, through August, weekly conferences with DOD, people in charge of the program, and, I will say, their claims examiners, to define what we mean.

We have recently expanded the TSGLI certification forms to include separate questionnaires for medical professionals to use that would provide very detailed information pertinent to the ADL losses. One of our concerns is that we believe the Congressional intent was that this program be for severely disabled personnel, the equivalent of Sergeant Keith, the multiple amputation, the paraplegia. We do not want to diminish that with a standard—I do not want to diminish anyone's claim, but we have had things such as twisted ankle. We had torn rotator cuff, broken jaw—people claiming that they could not perform activities of daily living. We do not believe that was the intent.

Now, I do not say that is the vast majority, but I think the vast majority—

Chairman CRAIG. No, I believe, for the Committee—at least for this Member of the Committee—that is a reasonable interpretation. It was not to be a broad net. It was to be a specific net for those who were by, what we think, a reasonably clear definition as traumatically injured.

Mr. LASTOWKA. I think we and DOD arrived at that, certainly our commercial partners, OSGLI, through Prudential, would concur in that. It is something, Sir, that we will look at. We are planning to do a complete program review shortly after the anniversary date in order to address all of your issues.

Mr. DOMINGUEZ. Sir, if I might, I would like to compliment the VA, my VA colleagues here, on the really aggressive and effective workshops and training and weekly discussions. We connect the people who are doing this work together and work through those things, including bringing these people together and running through examples of the problems.

And that has been the initiative of the Veterans Affairs Department and, really, my hat is off to them for the work they have done to make this standard across services so that we can—we have high confidence that a determination in the Air Force would be the same determination reached in the Marine Corps.

Mr. LASTOWKA. Sir, if I could add one more thing.

As I talked about the layman understanding versus, I will say, the claims examiner, if it was truly confusing to the claims examiner, I do not think DOD could be processing these in the average of 12 days.

Mr. Wurtz. Mr. Chairman, the only thing that I would add is that we have created a very detailed procedures guide. We have brought one down with us today, I believe to the staff, that will address some of these issues.

Chairman CRAIG. All right. Gentlemen, my last question, then would be, as the operational and policy issues arise, is there an ongoing collaborative effort between DOD and VA in this? It appears there has been to date. Does that continue on a regular basis?

Mr. LASTOWKA. That continues, Sir. The weekly calls are now bi-weekly calls. Obviously, they can call us up at any time that they wish to, but I think that we continue to cooperate. As recently as a month ago, we were reporting to the Joint Executive Council concerning the progress.

Chairman CRAIG. OK. Well, gentlemen, thank you very much for your time and your testimony this morning. The Committee will stay alert to this program. We wanted to achieve the goals that Congress intended it to, and it appears we are clearly on our way to doing that.

Thank you.

Now, let me invite our second panel forward. Sergeant John Keith, United States Army, combat wounded veteran of Operation Iraqi Freedom; and Jeremy Chwat, Associate Executive Director, Policy and Service, Wounded Warrior Project.

Gentlemen, again, thank you so much for being with the Committee this morning.

Sergeant Keith, we will turn to you first. Please proceed.

STATEMENT OF SERGEANT JOHN KEITH, COMBAT WOUNDED VETERAN, OPERATION IRAQI FREEDOM, U.S. ARMY

Mr. KEITH. Thank you, Mr. Chairman.

Thank you for allowing me to address the Committee. On November 9, 2004, while responding to an insurgent attack on a battalion convoy, the vehicle I was riding in was struck by a rocket propelled grenade, an RPG. The RPG struck the driver's side rear door where I was sitting. The blast shattered my femur bone, it took a big chunk out of my thigh, my ears were ringing, and it felt like I was on fire.

The medic came and took me to the international zone and that is the last thing I remember. I woke up 14 days later at Walter Reed Army Medical Center. After leaving Iraq, I went to Langstul, Germany. That was where my wife, Pam, my parents, Brenda and John, Sr., met me. They told me I have to stay in Germany for 2 weeks due to a double lung injury.

Within a few hours after arriving, the doctors told them that my lungs were improving, so I could be flown back to the States. My wife flew back to the States with me on the medevac plane and took care of me. I was then taken to Walter Reed Army Medical Center. While at Walter Reed, I underwent surgery on my leg every other day. I was able to keep my leg until December 22, 2004. The doctors and I decided to take my leg off because I wanted to have an active life.

After spending 60 days as an inpatient, I moved to the Mologne House where I spent the next 5 months living in a hotel room with my wife and two kids. All during this time, I was still assigned to Fort Hood, Texas, maintaining a house there with full utilities and also trying to support a family of four here in Washington, DC, eating out three times a day, renting a car, gas, and purchasing clothing for two growing kids. It was very difficult on a sergeant's pay. We went through our savings and more during this time.

I learned about the insurance through the Wounded Warrior Project team I met at Walter Reed Army Medical Center. Every time I saw them they gave me an update on the progress of the bill. At first, I did not know whether I would qualify because I was injured before the bill was passed. But, as time went on, I understood it was retroactive to the start of the war.

I remember thinking that the Government is really trying to take care of my family, even though I was just an enlisted Sergeant in a big Army. I received the maximum TSGLI payment due to the loss of my left leg above the knee, for being in a coma for 14 days, hearing loss in my left year, traumatic brain injury, and a third degree burn on my abdomen. I was able to replace my savings account, pay off most of my debts, and buy my wife a new van.

So, whatever the Army will decide to do with me, either to stay on active duty or move me to the VA system, let me stay in or let me go, it will be OK. I hope that the Army will let me stay so I can finish what I started.

Thank you, Sir.

[The prepared statement of Mr. Keith follows:]

PREPARED STATEMENT OF SERGEANT JOHN KEITH, COMBAT WOUNDED VETERAN,
OPERATION IRAQI FREEDOM, U.S. ARMY

On November 9, 2004, while responding to an insurgent attack on a Battalion convoy, the vehicle I was riding in was struck by a Rocket-Propelled Grenade (RPG). The RPG struck the driver's side rear door where I was sitting. The blast shattered my femur bone, taking a big chunk out of my thigh. My ears were ringing and I felt like I was on fire. The medics came and took me to the International Zone and that was the last thing I remembered. I woke up 14 days later. After leaving Iraq they sent me to Langstul Germany, that is where my wife Pam, and my parents John, Sr., and Brenda met me. They were told that I would stay in Germany for 2 weeks due to my double lung injury. Within 4 hours of arriving, the doctors told them my lungs were improving so I could be flown back to the States. My wife flew back to the states with me and took care of me. I was taken to Walter Reed Army Medical Center (WRAMC). While at WRAMC, I underwent surgery every other day

on my leg. I was able to keep my leg until December 22, 2004. The doctors and I decided to take the leg off because I wanted an active life. After spending 60 days as an inpatient, I moved to the Mologne House, where we spent the next 5 months living in a one-room hotel.

All during this time I was still assigned to Fort Hood, Texas, and maintaining a house there with full utilities. Also, supporting a family of four here in Washington, DC, with food, eating out three times a day, renting a car, gas and purchasing clothing for two growing children was very hard to do on a sergeant's pay. We went through our savings and more during this time.

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After receiving my TSGLI, payment of the maximum payment, due to the loss of my left leg above the knee, being in a coma for 14 days, hearing loss in the left ear, traumatic brain injury, and third degree burns to my abdomen. I was able to replace my savings, pay off most debts, and buy my wife a new van. So, whatever the Army will decide to do with me, either by staying active duty or move to the VA system, let me stay in or let me go I will be OK. We will be OK. I hope the Army will let me stay in to finish what I started.

Chairman CRAIG. Sergeant, thank you very much for that very important testimony. We appreciate that for the record.

Before I question you in any way, let me turn to you, Jeremy, for any comments you would wish to make before questioning. Thank you.

STATEMENT OF JEREMY CHWAT, ASSOCIATE EXECUTIVE DIRECTOR, POLICY AND SERVICE, WOUNDED WARRIOR PROJECT

Mr. CHWAT. Thank you, Chairman Craig.

I thank you for convening this hearing and allowing me to testify about the Wounded Warrior Project's perception on the implementation of the new traumatic servicemember group life insurance program.

The Wounded Warrior Project is a nonprofit organization that assists the men and women of the United States Armed Forces who have been severely injured during the War on Terrorism in Iraq, Afghanistan, and other hot spots around the world.

One of our finest achievements has been the role we have played in the creation of the new traumatic injury insurance, on which this hearing is being held. The Wounded Warrior Program is still amazed by the speed with which this legislation was introduced and passed. We remain eternally grateful to you, Chairman Craig, for your unyielding commitment to seeing this legislation through to enactment.

Additionally, we once again thank Senator Akaka, Senator Salazar, and Senator Thune for cosponsoring this measure, and for their leadership in having the program enacted.

While none of this would have happened were it not for the determination of this Committee and the Chairman, once the bill was enacted, the lion's share of the work done on developing and implementing this program was by the Department of Veterans Affairs' Office of Servicemember Group Life Insurance, as well as by the Department of Defense, and the contact and claims certifying officials from the individual service branches.

Wounded Warrior cannot speak highly enough of all the time and effort that has gone into creating this program, and I would like to publicly thank all of the involved agencies on behalf of the severely injured servicemembers and their families who, in their time of greatest need, have had many of their financial fears allayed as a result of these insurance payments.

Overall, we are very pleased with the TSGLI program implementation. While there have certainly been bumps in the road during the implementation process, in just about every instance, VA and DOD have worked to remedy the problems, and the program continues to function with ever-increasing efficacy.

For example, early on in the implementation process, there were concerns raised about the difficulty in filling out the application form and substantiating the servicemembers inability to perform various activities of daily living. In response, VA has worked to create a new and more comprehensive form that should eliminate many of these problems.

Additionally, while manpower was stretched thin during the initial implementation process due to the onslaught of retroactive claims, these manpower issues have been worked out over time and no longer seem to be as much of an issue.

Still, while we are happy with how the program has worked out, we are concerned with one inequity in the implementation of the retroactive payments. As you know, the intent of the traumatic injury rider is to help severely injured servicemembers and their families during the long and arduous treatment and rehabilitation periods that follows the occurrence of severe injuries.

In most instances, this new insurance program has become the intended financial bridge from the time of injury until the warrior is eligible for VA benefits. It has allowed most families the flexibility to put their lives on hold at a moment's notice and be with their loved one during an oftentimes lengthy period of convalescence and recovery. It has ensured that most injured servicemembers can concentrate more fully on their recovery and the transition back into civilian life, rather than on the financial impact of their catastrophic injuries.

Unfortunately, there are still a handful of Wounded Warrior servicemembers who were recently wounded while on active duty who do not qualify for the insurance payment. In addition to covering all active duty servicemembers with qualifying injuries incurred after December 1, 2005, thanks to Congress's generosity, the program makes retroactive payments to those servicemembers who incurred qualifying injuries since the beginning of Operation Enduring and Iraqi Freedom.

As you know, Wounded Warrior never asked for any retroactive payments while lobbying for the traumatic injury insurance, and we remain extremely grateful that Congress had the foresight to extend payments to those warriors who were injured prior to the legislation's effective date.

Unfortunately, as currently written, not all retroactive injuries are covered and this has resulted in confusion and perceived inequity on the part of some severely wounded servicemembers. As currently written, the regulation dictates that in order for a retroactive injury to be covered it must have been incurred in Oper-

ations Enduring Freedom or Iraqi Freedom. It then defines “in Operations Enduring Freedom or Iraqi Freedom” to mean that the servicemember must have been injured while deployed “outside the United States on orders in support of Operations Enduring Freedom or Iraqi Freedom or served in a geographic location that qualified the servicemember for the combat zone Tax Exclusion under 26 U.S.C. 211.”

By defining “in Operations Enduring Freedom or Iraqi Freedom” as such, the regulation has disqualified a number of traumatically injured servicemembers from payment based solely on their location at the time their injury was incurred. Wounded Warrior project believes that there should be no difference between injuries incurred prior to December 1, 2005 or after December 1, 2005, and that the same criteria that apply to prospective injuries should apply to retroactive injuries. It is inequitable to deny retroactive payments to those who have suffered the same grievous injuries based solely on the location where the traumatic event took place.

Should the rule remain as written, brave men and women who were traumatically injured after October 7, 2001, but before December 1, 2005, will be denied the same retroactive payment given to their wounded comrades, based solely on the location they were ordered to, or were at, when their injuries occurred. Brave men and women like Seaman Robert Roeder, who was injured on January 29, 2005, when an arresting wire on the aircraft carrier, the USS *Kitty Hawk*, severed his left leg below the knee.

Seaman Roeder was stationed out of Yokuska, Japan, and his ship was on its way to the Gulf of Arabia when his injury occurred during flight training operations. Although the ship was on its way to the Gulf and the training exercises being conducted were in preparation for action in either Operation Enduring or Iraqi Freedom, Robert’s injury does not qualify for payment under the interim final rule as written.

Robert was hospitalized at Brooke Army Medical Center in San Antonio, Texas, for over a year and his recovery and rehabilitation has been just as strenuous and arduous as it would have been had his ship made it to the Gulf of Arabia prior to his injury. Seaman Roeder is not the only wounded servicemember being impacted by this inequity. We strongly believe that corrective legislation should be passed so that Seaman Roeder and other warriors like him will not be deprived of this vitally important insurance.

Again, Wounded Warrior is very pleased with the overall implementation of the TSGLI program, and we are very grateful for the hard work that has gone into making this program a reality. I cannot overstate how many people and families have benefited from this insurance at a time in their lives when they needed all of the assistance they could possibly get.

The Wounded Warrior Project is honored to have played a role in its creation, and I thank you again for giving us this opportunity to testify.

[The prepared statement of Mr. Chwat follows:]

PREPARED STATEMENT OF JEREMY CHWAT, ASSOCIATE EXECUTIVE DIRECTOR,
POLICY AND SERVICE, WOUNDED WARRIOR PROJECT

Chairman Craig, Ranking Member Akaka, and Members of the Committee, I thank you for convening this hearing and for allowing me the opportunity to testify about the Wounded Warrior Project's perception on the implementation of the new Traumatic Servicemember Group Life Insurance (TSGLI) program.

The Wounded Warrior Project (WWP) is a non-profit organization that assists the men and women of the United States Armed Forces who have been severely injured during the war on terrorism in Iraq, Afghanistan and other hot spots around the world. Beginning at the bedside of the severely wounded, WWP provides programs and services designated to ease the burdens of these heroes and their families, aid in the recovery process and smooth the transition back to civilian life. We strive to fill the vital need for a coordinated, united effort to enable wounded veterans to aid and assist each other and to readjust to civilian life.

One of our finest achievements has been the role we played in the creation of the new Traumatic Injury Insurance on which this hearing is being held. WWP is still amazed by the speed with which this legislation was introduced and passed and we remain eternally grateful to Chairman Craig for his unyielding commitment to seeing the legislation through to enactment. Additionally, we once again thank you Senator Akaka for cosponsoring the measure and for your leadership in having the program enacted.

While none of this would have happened were it not for the determination of Chairman Craig and Ranking Member Akaka, once the bill was enacted the lion's share of the work done on developing and implementing this program was by the Department of Veterans Affairs' Office of Servicemember Group Life Insurance as well as by the Department of Defense and the contact and claims certifying officials from the individual Service branches. WWP cannot speak highly enough of all the time and effort that has gone into creating this program and I would like to publicly thank all of the involved agencies on behalf of the severely injured servicemembers and their families who, in their time of greatest need, have had many of their financial fears allayed as a result of these insurance payments.

Overall, the Wounded Warrior Project is very pleased with the TSGLI program implementation. While there have certainly been "bumps in the road" during the implementation process, in just about every instance VA or DOD have worked to remedy the problems and the program continues to function with ever increasing efficacy. For example, early on in the implementation process there were concerns raised about the difficulty in filling out the application form and substantiating the servicemember's inability to perform various Activities of Daily Living (ADLs). In response, VA has worked to create a new and more comprehensive form that should eliminate many of these problems. Additionally, while manpower was stretched thin during the initial implementation process due to the onslaught of retroactive claims, these manpower issues have been worked out over time and no longer seem to be as much of a problem.

Still, while we are very happy with how the program has turned out, we are concerned with one major inequity in the implementation of the retroactive payments. As you know, the intent of the traumatic injury rider is to help severely injured servicemembers and their families during the long and arduous treatment and rehabilitation period that follows the incurrence of a severe injury. In most instances this new insurance program has become the intended financial bridge from the time of injury until the warrior is eligible for VA benefits. It has allowed most families the necessary flexibility to put their lives on hold at a moment's notice and be with their loved one during an oftentimes lengthy period of convalescence and recovery. It has ensured that most injured servicemembers can concentrate more fully on recovery and the transition back into civilian life rather than on the financial impact of their catastrophic injuries. Unfortunately, there are still a handful of wounded warriors who do not qualify for this insurance payment.

In addition to covering all active duty servicemembers with qualifying injuries incurred after December 1, 2005, thanks to Congress' generosity the program makes retroactive payments to those servicemembers who incurred qualifying injuries since the beginning of Operations Enduring and Iraqi Freedom. As you know, WWP never asked for any retroactive payments while lobbying for Traumatic Injury Insurance and we remain extremely grateful that Congress had the foresight to extend payments to those warriors who were injured prior to the legislation's effective date. Unfortunately, as currently written, not all retroactive injuries are covered and this has resulted in confusion and perceived inequity on the part of some severely wounded servicemembers.

As currently written the regulation dictates that in order for a retroactive injury to be covered it must have been incurred, "in Operations Enduring Freedom or Iraqi Freedom". It then defines "in Operations Enduring Freedom or Iraqi Freedom" to mean that the servicemember must have been injured while deployed, "outside the United States on orders in support of Operations Enduring or Iraqi Freedoms or served in a geographic location that qualified the servicemember for the combat zone Tax Exclusion under 26 U.S.C. 211."

By defining "in Operations Enduring Freedom or Iraqi Freedom" as such, the regulation has disqualified a number of traumatically injured servicemembers from payment based solely on their location at the time their injury was incurred. WWP believes that there should be no difference between injuries incurred prior to December 1, 2005 or after December 1, 2005, and that the same criteria that apply to prospective injuries should apply to retroactive injuries. It is inequitable to deny retroactive payments to those who have suffered the same grievous injuries based solely on the location where the traumatic event took place.

Should the rule remain as written brave men and women who were traumatically injured after October 7, 2001, but before December 1, 2005, will be denied the same retroactive payment given to their wounded comrades, based solely on the location they were ordered to, or were at, when their injuries occurred. Brave men and women like Seaman Robert Roeder who was injured on January 29, 2005, when an arresting wire on the aircraft carrier, the USS *Kitty Hawk*, severed his left leg below the knee. Seaman Roeder was stationed out of Yokuska, Japan and his ship was on its way to the Gulf of Arabia when his injury occurred during flight training operations. Although the ship was on its way to the Gulf and the training exercises being conducted were in preparation for action in either Operation Enduring or Iraqi Freedom, Robert's injury does not qualify for payment under the Interim Final Rule as written. Robert was hospitalized at Brooke Army Medical Center in San Antonio, Texas for over a year and his recovery and rehabilitation has been just as strenuous and arduous as it would have been had his ship made it to the Gulf of Arabia prior to his injury.

Seaman Roeder is not the only wounded servicemember being impacted by this inequity in the regulation. We strongly believe that the regulation should either be rewritten or corrective legislation should be passed so that Seaman Roeder and other wounded warriors like him will not be deprived of this vitally important benefit, one with a stated mission of assisting in their rehabilitation and transition into civilian life.

Again, WWP is very pleased with the overall implementation of the TSGLI program and is very grateful for all of the hard work that has gone into making this program a reality. I cannot overstate how many people and families have benefited from this insurance at a time in their lives when they needed all the assistance they could get. The Wounded Warrior Project is honored to have played a role in its creation and I thank you again for giving us this opportunity to testify.

Chairman CRAIG. Jeremy, thank you very much.

Sergeant Keith, first of all, on behalf of the Committee, let me thank you for your service and your commitment. As many of my colleagues have already said, you are, without question, one of our heroes, and we do not state that lightly.

You are also a perfect example of why we moved the legislation that we did, that is now law. Because we recognized, as was so clearly stated by those who the Wounded Warrior Project brought to me, that this was not just about you or the particular service person. It was about the family, the wife, the mother, the father, the children, and oftentimes we forget that when we see a wounded servicemember. Our eyes and attention are focused on them. But behind them, in almost all instances, is a family that is suffering in some form and to some degree. Certainly not to the physical extent, but maybe to the mental extent, and all the emotions that go with that, as you well know.

In all of that, one of the greater frustrations is continuing on. And if you have a financial burden, it adds to that dramatically. So, I think your testimony today, the way you laid it out for us,

is extremely important for the record and it reflects clearly what we intended to do with this law.

Mr. KEITH. Thank you, Sir.

I have said it many times that not just the soldier gets wounded, the whole family gets wounded. It was a very stressful time for my whole family. My daughter, who is 5 years old, did not really know what was going on. She just knows that Dad lost his leg. My son, fortunately, is only going to know me with having only one leg, but I can still get him if he gets in trouble.

[Laughter.]

Chairman CRAIG. For a time.

Mr. KEITH. I will catch him. I will get him, eventually.

The whole program, I had nothing but good experience. The Army Wounded Warrior Program initiated the paperwork, I think it was like 2 days before it was supposed to be enacted, to make sure that we would get all of the paperwork filled out by the doctors and all that.

They met with us on a Wednesday when we went through amputation clinic, and we filled out all the paperwork then so they could submit it that day. I received mine about 30 days later, but everything went smoothly.

Chairman CRAIG. Good. Well, thank you very much.

Jeremy, first of all, we appreciate your overall reaction to what you brought to us and hoped to be a success. By most definitions, I think it clearly is a success. But you also bring up the issue of definition, and those who fell outside of that definition.

In bringing the case in point, and the individual that you brought in that case, has Wounded Warrior Project, in any way, determined the number of those who are qualified that might be out there, but fall outside of the definition?

Mr. CHWAT. I have personally heard of a handful of cases. It really depends on how widely you extend the definition.

Chairman CRAIG. Yes, of course.

Mr. CHWAT. Do you extend the definition to include all active duty servicemembers who may have been stateside in training who were injured in some way, be it on the way to or from base, or those types of things, or do we expand it to include those who were clearly on route to combat or in a specific training exercise?

So, it really would depend on how we redefine the retroactive applicability. I should note that, though, when it came to the increase in the servicemember group life insurance benefit for survivor families who died before that insurance premium was raised, the benefit was raised, that Congress did go back and retroactively apply it to all of those servicemember families who lost a loved one during that time period.

So, there is some Congressional precedent to do that.

Chairman CRAIG. Yes, there is.

Well, we will take a look at that. I think that you make a very important point. When we write legislation, you never quite know where the lines fit or do not fit, are fair or demonstrate an inequity.

As we all know, lines have to be drawn, and it is important that they are effectively drawn, just like the last panel. How do you define traumatic? It was not intended to be broad. It was intended

to serve those who truly fit a definition. And, at the same time, it was not intended to exclude those who fit the definition, but fell outside the fine line of time or relationship to a given point in time in operations.

So, I appreciate you bringing that before the Committee. We will take a look at that and work with DOD and VA to see where that might fit, and what might be more appropriate in relationship to that.

The example that you have cited—I do not think that we can quibble over that, but by apparent definition, that gentleman falls outside the line.

Mr. CHWAT. Yes.

Chairman CRAIG. Well, thank you both very much again for participating and being with us through this, especially the Wounded Warrior Project. You have served your purpose mightily, and I think the Sergeant would agree with that.

Mr. CHWAT. Thank you.

Chairman CRAIG. Thank you both very much. We appreciate it.

Mr. KEITH. Thank you, Sir.

Chairman CRAIG. The Committee will stand adjourned.

[Whereupon, at 11:15 a.m., the hearing was adjourned.]

