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**Statement of Thomas M. Lastowka  
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Department of Veterans Affairs  
Before the Senate Veterans' Affairs Committee  
on Traumatic Injury Protection under the  
Servicemembers' Group Life Insurance Program (TSGLI)  
September 7, 2006**

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, three 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 two 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 service member 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 seven-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 seven-day period. We have concluded that a period of seven 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 service members. 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 insureds 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 on-site 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 two 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 one-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% of the body or 30% 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

If the loss is? Then the amount that will be paid is?

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.

If the loss is? Then the amount that will be paid is?

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.

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.

If the loss is? Then the amount that will be paid is?

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

If the loss is? Then the amount that will be paid is?

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.

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 30th consecutive day of the inability to carry out activities of daily living ? \$25,000

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