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June 3, 2015

**United States House of Representatives
House Committee on Veterans' Affairs
Health Subcommittee Hearing
“Assessing VA’s Ability to Promptly Pay Non-VA Providers”**

Written Statement

STATEMENT OF THE
NATIONAL MOBILITY EQUIPMENT DEALERS ASSOCIATION
SUBMITTED AT THE HEARING OF THE HEALTH SUBCOMMITTEE
OF THE HOUSE COMMITTEE ON VETERANS' AFFAIRS

“ASSESSING VA’S ABILITY TO PROMPTLY PAY NON-VA PROVIDERS”

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I. Organization Description

NMEDA is a non-profit trade association dedicated to expanding opportunities for people with disabilities (many of whom are veterans) to safely drive or be transported in vehicles modified with mobility equipment to fit their special needs. Formed in 1989, the organization is comprised of more than 600 members including mobility dealers, mobility equipment manufacturers, vehicle alterers/second stage manufacturers, original equipment automotive (OEM) manufacturers, driver rehabilitation specialists, healthcare, and other industry professionals. NMEDA promotes and supports these professionals engaged in the modification of quality transportation for people with disabilities. Since its inception, NMEDA member mobility dealers have worked with the VA to supply disabled veterans with safe and reliable transportation in order to help them maintain an active and productive lifestyle.

Within NMEDA there are more than 300 highly qualified mobility dealers who specialize in modifying, selling, and servicing specially equipped vehicles so that people with physical disabilities can safely drive on public roads and highways. Each NMEDA member dealer is required to follow the rules of our Quality Assurance Program (QAP); adhere to the NMEDA Guidelines; and submit to a yearly audit by a third party auditor in order to ensure that all rules and guidelines are being adhered to.

The QAP rules require NMEDA members to:

- Maintain Product, Completed Operations, and Garage Keepers Insurance
- Employ technicians who are trained and certified for the equipment they sell, install, and service
- Employ certified welders to perform all structural modifications to vehicles

- Provide 24-hour emergency service to all customers
- Meet shop facility and equipment requirements (*e.g.*, provide and maintain ADA-compliant facilities and showrooms)
- Possess and use four-corner scales to make safety adjustments to vehicles with new equipment installations
- Undergo a yearly, independent inspection/audit process to ensure compliance with NMEDA Guidelines, the National Highway Traffic Safety Administration’s (NHTSA) Federal Motor Vehicle Safety Standards (FMVSS) and “Make Inoperative” mandates, and all applicable provisions of the Americans with Disabilities Act.
- Abide by the decision(s) of the Mediation Committee when consumers, dealers and/or any other person or entity logs a complaint.

It is important to note that all NMEDA dealer members are small business owners, varying in size from three employees to up to 15 employees per location. On average, NMEDA estimates that each dealer location produces approximately \$2.5 million in annual gross revenue through the sale of modified vehicles, mobility equipment installations, and service and upkeep. Prompt payment is extremely important to the majority of our retail members; in the absence of prompt payment, NMEDA member small businesses struggle to pay employee salaries, to pay expenses, and to remain operational. Approximately 75% of NMEDA’s member dealers work with their local/regional VA facilities in some capacity. In some cases the VA represents as much as 25% of a dealer’s annual income and, over time, the VA’s slow payment practices have resulted in NMEDA members becoming hesitant, unwilling, or simply unable to provide care to veterans due to concerns they will not be paid – promptly or perhaps even at all – for the services they provide.

II. Overview of Prompt Payment Issues

This document is being provided by the National Mobility Equipment Dealers Association (NMEDA) as testimony to the payment practices of the VA relative to the Prosthetics Department’s Automotive Adaptive Equipment (AAE) program and the Veterans Benefits Administration’s Auto Grant program.

NMEDA member mobility dealers are proud and honored to serve our nation's veterans and we appreciate the business we get through the VA on their behalf. However, the VA's process for ordering and purchasing a modified vehicle and/or equipment for veterans with disabilities is often a frustrating and inefficient one. These difficulties are particularly evident when considering the process by which non-VA providers receive payment for services rendered.

The Prompt Payment Act (5 CFR Part 1315) is meant to ensure that valid and proper invoices submitted by vendors are paid on time by federal agencies. Per the Prompt Payment Act, a payment is due on whichever of the following four conditions applies:

1. The date specified in the contract;
2. In accordance with discount terms when the vendor has offered a discount and the agency has accepted those terms;
3. On an accelerated schedule when the conditions for accelerated payment apply; or
4. 30 day after the agency has received a proper invoice.

All invoice payment due dates referenced in this statement are subject to condition 4.

While not all VA facilities and VISNs struggle with promptly paying non-VA providers, NMEDA can testify to the fact that many are slow to pay mobility dealers for products and services rendered to veterans with disabilities. The Prompt Payment Act sets a standard of 30 days for properly submitted invoices to be paid, but this standard is rarely met by the VA. As past-due invoices continued to pile up, NMEDA initiated a Past-Due VA Invoice Program in an attempt to help our members receive reimbursement for overdue payments from the VA. The Past-Due VA Invoice Program has been operational for approximately five years and during that time over \$34 million in past-due invoices – many of these invoices months or even years past-due – have been sent to the VA Central Office. Unfortunately, NMEDA has yet to receive any indication that VA's payment procedures have improved.

III. Historical Perspective

The slow payment practices of the VA have been an issue of great concern ever since NMEDA's inception over 25 years ago. Over the years there have been a number of attempts to convince VA that slow payment of invoices should be dealt with at the national level. Time and

again, dealers appealing to their local VAs were told that past-due invoices would be paid once they were no longer “hung up” at the regional office or “being processed through VA’s system.”

In 2010, NMEDA met with the (then) Chief of Prosthetics at VA, Fred Downs. After citing NMEDA members’ concerns with slow payment, Mr. Downs asked NMEDA to produce the past-due invoices from its membership so that VA Central Office could help get them paid. NMEDA sent an email to its membership asking them to submit VA invoices over 60 days past-due and, within 10 days, NMEDA received 547 invoices from 87 members totaling \$3,954,051.22 in past-due payments from VA. 44% of those invoices were over 120 days past due and 27% of those invoices detailed past-due payments of over \$5,000 (some in the tens of thousands). The numbers and figures were shocking – and VA agreed – so NMEDA organized the invoice data by VA facility and sent it to the Prosthetics Department’s Central Office Staff for handling. The invoices were then sent from VA Central Office to each local facility with a directive to process the invoices as soon as possible. The feedback from NMEDA membership was positive and VA’s Prosthetics Department agreed to continue the process on a quarterly basis.

Since 2010 the NMEDA Past-Due VA Invoice Program has submitted fourteen Past-Due Reports to the Prosthetics Department for processing. While it is admirable that the Prosthetics Department has been responsive to NMEDA’s Past-Due VA Invoice Program, it must be stated that no real progress has been made by VA in terms of actually improving the VA payment process and its accompanying procedures. NMEDA continues to request past-due invoices from our members, and we continue to receive past due invoice submissions totaling millions of dollars.

In 2012, VA asked NMEDA to submit separate reports for the Prosthetics AAE program and the VBA Auto Grant program. In 2014, the Prosthetics Department further modified the program by requesting that NMEDA only send invoices over 120 days past due. While this request ultimately reduced the number of invoices used as data points, the Past-Due Invoice Reports that were submitted in 2014 still documented an average of \$1.5 million in past-due VA invoices.

While NMEDA appreciates the VA’s efforts, the agency was and still is only addressing the symptoms. NMEDA members have experienced no meaningful or consistent improvement in the payment processing timeline.

IV. NMEDA's Past-Due VA Invoice Program Facts

- Fourteen Past-Due VA Invoice Reports have been submitted to the VA Central Office in Washington, DC, since November 2010.
- Overall, 3,907 past-due VA invoices totaling \$34,332,600.88 have been submitted.
- While the average number of days past-due is approximately 160 days (five months), there are numerous invoices over three years past-due.
- It is estimated that 80% of the total amount past-due (\$27,466,080.70) can be attributed to the AAE Program administered by the VA Prosthetics Department. It is estimated that 20% of the total amount past-due (\$6,866,520.18) belongs to the Auto Grant Program administered by the VBA.
- Each dealer member averages \$67,318.83 outstanding (past-due) for each Past-Due VA Invoice Program Report. However, some dealers show several hundred thousand dollars in past-due invoices on any given report.
- In the latest Past-Due Invoice Report submitted to VA in February of 2015, one invoice was 2,368 days past-due (over 6 years) and 16% (34 out of 147 invoices) were over one year old. All invoices were complete and properly submitted, but none have been paid. In addition, complete and properly submitted invoices averaged nine months (271 days) past-due with over 63% of the invoices over 180 days past-due.

NMEDA Past Due VA Invoice Program Summary							
Date	Number of Invoices	Total	Over 120 Days Past Due	% Over 120days	Dealers Reporting	Prosthetics 1394	VBA Auto Grant
2/10/2015	147	\$ 2,237,902.13	147	100%	27	\$ 1,962,487.13	\$ 257,585.00
8/6/2014	134	\$ 1,680,321.97	134	100%	24	\$ 1,406,570.97	\$ 273,751.00
4/10/2014	109	\$ 1,446,698.47	109	100%	20	\$ 1,170,444.22	\$ 275,869.25
10/5/2013	322	\$ 3,433,267.75			32	\$ 2,459,988.09	\$ 973,279.66
8/11/2013	35	\$ 340,770.48			5	\$ 264,246.81	\$ 76,523.67
4/2/2013	279	\$ 2,267,301.59			32	\$ 1,947,005.84	\$ 320,295.75
10/22/2012	287	\$ 2,484,545.82			34	\$ 1,868,045.82	\$ 616,500.00
5/23/2012	335	\$ 2,721,484.62			36	\$ 2,192,984.62	\$ 528,500.00
2/2/2012	481	\$ 4,900,831.81			59		
10/3/2011	267	\$ 2,162,073.65	104	39%	46		
7/19/2011	256	\$ 1,835,589.12	138	54%	22		
5/9/2011	312	\$ 2,721,484.62	170	54%	35		
1/28/2011	396	\$ 2,146,277.63			51		
11/22/2010	547	\$ 3,954,051.22	243	44%	87		
	3907	\$ 34,332,600.88			510	\$ 13,271,773.50	\$ 3,322,304.33
						80%	20%

V. **Lack of Policy Uniformity Contributes to Slow Payment**

Claims processing and payment procedures vary widely from one VA facility or VISN to the next. For example, a NMEDA member has reported that a properly submitted invoice will be paid within 30 to 35 days in Tennessee, while it can take six to eight months for a properly submitted invoice to be paid in Illinois and Indiana. Such inconsistent invoice processing amongst VISNs serves to illustrate the VA's lack of uniform procedures and its own inability to implement and enforce prompt payment policy. The following are several additional examples of inconsistent VA policies and procedures negatively impacting the timely payment of non-VA provider invoices with respect to VA's Auto Grant and AAE programs:

California

- A NMEDA dealer has two stores in the Los Angeles Metro Area and works with four different VA facilities. This member currently has thirteen outstanding invoices totaling \$151,840.79 in past-due payments and averaging 355 days past-due (the oldest one dating back 648 days). This dealer has made numerous attempts to resolve the past-due invoices with the various VA facilities, to no avail. All thirteen of the invoices in question were submitted to the Prosthetics Department Central Office Staff under the NMEDA Past-Due VA Invoice Program, also to no avail. Neither the VA Central Office in Washington, DC, nor any of the local VA offices, has communicated with the dealer in an effort to resolve any of the thirteen past-due invoices.
- A different NMEDA member dealer with three stores in the Los Angeles Metro Area has five outstanding veteran accounts (nine separate invoices) totaling \$69,000 in past-due payments averaging 196 days past-due (all invoices are over 120 days past-due). This mobility dealer continues to work for the veterans – and, by extension, with the VA – despite the fact that VA has still not paid for nearly \$70,000 of previous work.

Arizona

- A veteran receiving care at the Phoenix VA Medical Center suffered from ALS. The mobility dealer had received prior authorization from the VA and the veteran had

signed the 1394 and VA-4502 forms. The van was delivered to the veteran's home on October 27, 2011 and the dealer hand-delivered the paperwork to the VA within five working days of the van's delivery date. However, within two months, the veteran passed away. After helping the veteran's widow re-sell the van, this mobility dealer did not receive the 1394 payment until six months later. The VA-4502 payment of \$18,900 was not made until thirteen months later. Throughout the so-called payment process, the VA stalled the payments to this dealer because the veteran had died before the claims were paid, even though the veteran was alive when he received the vehicle. In this case, the VA did not even follow its own payment process. This example also underscores VA's lack of a policy to accelerate the AAE/Auto Grant process in cases where time is critical (*i.e.*, terminal illness).

Kentucky

- A veteran submitted Auto Grant Form 4502 for approval on March 22, 2012, and the VA signed off its approval on May 29, 2012. The veteran then used the auto grant to purchase a vehicle. Four months later, the veteran was informed that the VA had erroneously signed off on the 4502 and that he was not in fact eligible to purchase a vehicle with VA auto grant funds. Having acted in good faith on an approved Auto Grant and after numerous attempts to resolve the situation, the Kentucky dealer has not been paid as of this testimony's writing because the VA has refused to honor its mistaken approval of a duplicate 4502. This example is an excellent illustration of the VA's inability to resolve payment issues in a timely manner, and highlights VA's lack of central control over program approvals. The Kentucky dealer still has no clear path for remedy or resolution.

Some VA facilities do manage to process invoice payments in a timely manner. However, a number of facilities consistently show up in NMEDA's Past-Due VA Invoice Report with member claims reaching hundreds of thousands of dollars. Examples from just one past-due report include:

- One mobility dealer in Durham, NC was owed \$247,651 from just one VA facility that includes 15 separate invoices all past due an average of 150 days (five months).

- A San Antonio mobility dealer was owed \$295,957 from one VA facility that includes 55 separate invoices all past due an average of 312 days (over ten months).
- A NMEDA dealer with stores in multiple states was owed a total of \$645,284 from five different VA facilities over four states. This scenario included 68 separate invoices all averaging 396 days (over thirteen months) past-due.

These amounts are much too high for a small business to have outstanding (past-due) at any time. It is unfortunately not unusual for NMEDA dealers to report over \$100,000 in past-due VA payments at any given time. Over the years that NMEDA has been reporting past due invoices to the VA, San Antonio, Richmond, Chicago/Hines, Houston, Atlanta, Richmond, and San Diego have consistently shown up as the biggest offenders.

It is important to note that specific mobility dealers' names have been omitted from this written statement due to fear of VA retribution and, by extension, potential loss of veteran business as punishment for trying to collect what is owed to them. In fact, NMEDA has received several reports of retaliatory action from a VISN after the VA Central Office instructed that local facility to pay its past-due invoices. Furthermore, some NMEDA members have begun to decline work from the VA because they simply can't afford to bankroll the VA's sluggish and inconsistent invoice processing procedures. As one NMEDA member put it: "If it wasn't for the people we serve [the veterans], we would just walk away from doing business with the VA."

As more qualified NMEDA QAP accredited dealers decline to work with the VA, the number of "qualified" AAE suppliers that the VA can call upon is diminishing. This means that suppliers who may not adhere to NMEDA's high standards – and in some cases do not adhere to any quality or safety standards at all – will be called upon to address our veterans' automotive mobility needs. Less-than-qualified suppliers provide less-than-adequate service, which leads to increased expense and administrative time as more and more problems with faulty equipment and improper installations arise. Such scenarios further exacerbate the inconsistencies in processing veteran claims and mobility dealer invoices. NMEDA's Quality Assurance Program ensures that the job is done right the first time, and such qualified and competent mobility dealers should not have to experience the strain of not being paid within a reasonable time frame.

VI. Related VA Inefficiencies Put Veterans, American Public at Risk

- No Quality/Safety Standards for AAE Providers, Outdated VA Handbook 1173.4

The VA requires a JCAHO certification in order to sell a veteran a bottle of oxygen, but there are no enforceable requirements in place for an individual or business to sell, install, and/or repair high-tech vehicles and/or complex driving systems that allow veterans with service-connected disabilities to operate motor vehicles on public roads and highways. As a result of this lack of standards, VISNs employ the use of inferior vendors (*e.g.*, individuals working out of home garages/parking lots/mobile trucks, individuals and businesses completely lacking insurance, individuals and businesses employing uncertified welders and technicians, etc.). The VA's lack of basic, minimum standards regarding the procurement, installation, and maintenance of AAE precipitates poor-quality installations and safety concerns. This is also an example of fiscal irresponsibility as the VA is spending taxpayer dollars for inferior services (and the inevitable correction thereof by a "qualified" provider).

- VA's Inappropriate Reliance on NHTSA Modifier Registration List

The VA currently refers veterans to the NHTSA Modifier Registration List to find a "qualified" mobility dealer. Unfortunately, the NHTSA Modifier Registration List was never intended for this purpose and is completely inadequate as a referral source. While NMEDA has had a long and positive relationship with NHTSA, and our Guidelines and QAP Rules are all designed to ensure that our mobility dealer members are in compliance with FMVSS, simply registering on NHTSA's site does not in any way infer or ensure that the registrant is following any kind of quality or safety program. To direct veterans to the NHTSA Modifier Registration List means VA is referring veterans to suppliers who may not have all (or any) of the qualifications, tools, and insurance necessary to provide the services and/or install the equipment the veteran requires. An unqualified vendor would *hopefully* acknowledge that they are unqualified, but there is no guarantee. The unfortunate reality of the NHTSA Modifier Registration List is that any individual or company can secure themselves a spot on the Mobility Modifier Registration List, thus allowing them to make certain quality and safety certifications despite the fact that they are, in some instances, completely untrained and unqualified to do so. Furthermore, the NHTSA Modifier Registration List is woefully inaccurate (*e.g.*, outdated addresses, incorrect

business names, modifier no longer in business, etc.) yet VA continues to refer veterans to this list as the veterans search for a “qualified” mobility dealer.

- **Glaring Inconsistencies Amongst VISNs**

VISNs tend to operate based on their own individual interpretations of VA operational procedures with respect to bidding jobs, processing invoices, etc. This variation can lead to problems of product quality and reliability, service expertise, increased long-term costs, veteran safety, and prompt payment of invoices, among others.

The above inconsistencies, in addition to VA’s inconsistent ability to promptly pay non-VA providers, will inevitably have a negative impact on the quality and safety of the service-connected veteran’s vehicle as well as the safety of others driving on public roads and highways.

VII. Questions and Requests for Additional Information

All facts and information contained in this written statement are documented. To request additional information or documentation, please contact:

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National Mobility Equipment Dealers Association
3327 W. Bearss Avenue
Tampa, FL 33618
800-833-0427

VIII. Conclusion

Slow payment of VA invoices has been a matter of contention for NMEDA members since the Association was founded in 1989. While \$34 million may not seem like a lot of money to the federal government, it is an astronomical amount of money for the small business owners who are directly impacted by the VA’s payment process ineptitude. The inconsistency of policy administration appears to be getting worse and, in recent years, there has been no indication that VA Central Office has taken any meaningful steps to improve VA’s inability to promptly pay non-VA providers. It is obvious to us at NMEDA that complaining about regional or local slow payment inconsistencies to the Central Office only generates retaliation at the local level,

additional hardship, and loss of veteran business. NMEDA's work with the VA Prosthetics Department and the VBA to remedy the slow payment problem has only served as a band aid. Despite our best efforts, the problem of slow payment to non-VA providers has not improved, is not improving, and absent Congressional intervention seems unlikely to improve in the future.

While it costs the mobility dealer a substantial amount of money to invest the large sums of cash placed on hold with no interest added, NMEDA believes that the VA's inconsistent payment policies and procedures (as well as the agency's difficulties with other areas of business administration) are ultimately doing the greatest disservice to our nation's veterans. Mobility dealers are beginning to choose not to work with the VA, meaning our veterans' choice of qualified suppliers is becoming more and more limited. Automotive mobility products can be extremely complex and anything that could potentially limit the quality of service or the safety of an installation is putting the disabled veteran at risk, along with the general public with whom the veteran shares the road. We all know our veterans deserve better.

Respectfully Submitted,

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