

Testimony of Kelley Kash, CEO

Maine Veterans' Homes

In Support Of

L.D. 614, "Resolve, To Extend Funding to the Maine Veterans' Homes during the COVID-19 Pandemic"

March 17, 2021

Senator Claxton, Representative Meyer, and Distinguished Members of the Health and Human Services Committee, my name is Kelley Kash and I am the Chief Executive Officer of the Maine Veterans' Homes (MVH). Thank you for the opportunity to testify in support of L.D. 614.

The proposed bill would extend supplemental MaineCare payment for nursing home care of veterans in MVH facilities for FY21-22 and FY22-23 that was provided by the Legislature in the prior biennial state budget. At that time, this Committee unanimously approved the bill (L.D. 606) which helped lead to the appropriation.

As background information, MVH was established by the Maine Legislature in 1977 as a quasi-state "body corporate" to provide long-term care and support to eligible veterans and family members. MVH functions as an independent nonprofit organization, which is unlike all other state veterans homes across the nation which are funded all or in great part by their respective states.

MVH operates six facilities, employs over 1000 staff, and has an annual operating budget of approximately \$100 million. Daily, MVH provides care and support to approximately 600 veterans. However, during the pandemic census has dropped to under 450. In addition, costs have increased significantly due to COVID-19 requirements. As a result, MVH's operating deficit has averaged about \$1 million per month during the pandemic.

MVH is reimbursed by MaineCare on a peer basis that includes capped limits at 110 percent of the peer group median. **However, MVH has no peers by comparison!**

First, MVH must comply with unique, additional and more stringent requirements from the Department of Veterans Affairs (VA), which other providers do not have. These include unique requirements for admissions, physician services, certifications, and credentialing, as well as significant financial, administration and reporting differences.

Second, MVH is vastly different from other nursing homes in the makeup of its residents and their care needs. Over 80 percent are male – the opposite is true for most community nursing homes. Males are larger, require more attendants for safe care, and their medical needs tend to be more

AUGUSTA 310 CONY ROAD AUGUSTA, ME 04330 1-888-684-4464	BANGOR 44 HOGAN ROAD BANGOR, ME 04401 1-888-684-4665	CARIBOU 163 VAN BUREN ROAD CARIBOU, ME 04736 1-888-684-4667	MACHIAS 32 VETERAN WAY MACHIAS, ME 04654 1-877-866-4669	SCARBOROUGH 290 US ROUTE 1 SCARBOROUGH, ME 04074 1-888-684-4666	SOUTH PARIS 477 HIGH STREET SOUTH PARIS, ME 04281 1-888-684-4668	CENTRAL OFFICE 460 CIVIC CENTER DRIVE AUGUSTA, ME 04330 1-800-278-9494
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complex, especially for veterans with post-traumatic stress disorder and other service-connected injuries.

For these reasons, MVH costs are higher than its facilities' peer groups. As a result, MVH averaged \$3,300,000 in MaineCare annual shortfall (defined as allowed costs versus actual payments) for nursing home reimbursements. This shortfall gap is unsustainable and threatens the financial viability of operating the Homes.

The Legislature agreed and in 2019 voted to appropriate \$750,000 supplemental payment to MVH in each of FY19-20 and FY20-21 to receive qualifying federal Medicaid match of approximately \$1,300,000 in each year. MaineCare submitted the State Plan Amendment to successfully secure the federal portion.

Recognizing MaineCare's reimbursement shortcomings, DHHS initiated its comprehensive evaluation and review of the MaineCare rate structure in 2020. We hoped this would address reimbursement inequities and shortfalls; however, the study's interim report notes that it may be at least a couple of years before nursing home and residential care reimbursement is addressed.

It should also be noted that MVH saves the State millions of dollars annually. First, MVH keeps veterans off of MaineCare by accessing federal programs to help veterans pay for care, including VA full payment for seriously disabled veterans. On average, MVH has 15 percent fewer MaineCare residents than community nursing homes across the state, equating to about \$3 million in savings annually. Second, since 2000 MVH has saved the State approximately \$70 million by providing the state portion for matching VA construction grants. This includes over \$40 million for the new Augusta facility which will open later this year. Every other state provides 100 percent of its State match for their state home projects.

I have included the following documents in the attachments to provide more information.

1. Comparison of state veterans homes funding
2. List of VA unique and additional requirements
3. MaineCare shortfall analysis FYs 2016-20

In closing, we support L.D. 614 to extend previous approved supplemental funding as an interim measure until the pandemic is over and more permanent changes can be made to the MaineCare rate structure.

Thank you for your attention and consideration.

A handwritten signature in blue ink, appearing to read "Kelley J. Kash".

Kelley J. Kash, Colonel, USAF, Medical Service Corps (Retired)
Chief Executive Officer

Attachment 1 - Comparison of State Funding for State Veterans Homes

<i>State</i>	<i>SVH Beds</i>	<i>Operating Expenses</i>	<i>State Supplement</i>	<i>Medicare</i>	<i>Medicaid</i>	<i>State Match for Construction and Life-Safety Upgrades</i>
Maine	640	\$75.0M	None	Yes	Yes	0%
New Hampshire	250	\$35.8M	\$16.7M	No	No	100%
Vermont	138	\$23.7M	\$7.1M	Yes	Yes	100%
Chelsea, Massachusetts	203	\$37M	\$26.5M	Yes Medicare Parts B & D only	No	100%
Rhode Island	208	\$33.1M	\$23.6M	No	No	100%

Sources:

State of New Hampshire 2018-2019 Biennium Budget Request https://das.nh.gov/budget/Budget2018-2019/2018B01_budget_book_Agency.pdf

2018 Budget Brief - Vermont Veterans' Home <https://vvh.vermont.gov/community/budget>

Chelsea MA State Veterans Home, Chief Financial Officer, February 20, 2019

Rhode Island State Veterans Home, Executive Director, email dated February 20, 2019

<i>State Veterans Home Construction Projects</i>	<i>Total Cost (Projected)</i>	<i>VA Grant</i>	<i>State Funds</i>
Augusta 138-bed replacement facility (ECD 2021)	\$91M	\$49M	None
Bangor Skilled Unit Renovation (2018)	\$4.5M	\$2.7M	None
South Paris Skilled Dining/Kitchen Addition (2017)	\$2.2M	\$1.4M	None
Bristol, RI SVH 208-bed replacement facility (2017)	\$120M	\$60M	\$60M
Chelsea, MA SVH 154-bed replacement facility (ECD 2022)	\$199M	\$129M	\$59M

Comparison of State Funding for State Veterans Homes

<i>State</i>	<i>SVH Participates in Medicare/Medicaid</i>	<i>State appropriations (Amount or Percentage of SVH budget)</i>	<i>State provides state match for VA grants (Percentage of match)</i>
Maine	Yes	0%	0%
Washington	Yes	3-6%	100%
Chelsea, Massachusetts	Medicare only	\$27M	100%
New Hampshire	No	47%	100%
Nevada	Yes - Cost-based Medicaid reimbursement	0%	100%
Idaho	Yes - Cost-based Medicaid reimbursement	3%	100%
Oregon	Yes	0%	100%
Rhode Island	No	100%	100%
Long Island, New York	Yes	0%	100%
Alabama	No	\$58M	100%
Vermont	Yes	\$7.1M	100%
Michigan	No	\$26M	100%
Delaware	Yes	\$16M	100%
California	Yes	\$175M	100%

MVH – Extraordinary Circumstances, Costs and Additional Requirements

EXTRAORDINARY CIRCUMSTANCES	
Maine Public Employees Retirement System	MVH is required to participate in MePERS. In FY18, MVH absorbed approximately \$1.6M in MePERS contributions higher than it would have under Social Security. MePERS employer current contribution rate is at 10% and is expected to go as high as 12% in coming years. Social Security contribution rate has been steady at 6.2%. In addition and unlike other providers, MVH must cover its portion any future MePERS unfunded liability and reflect that cost annually. The current MVH portion of the MePERS unfunded liability is \$18M, making the cost to withdraw from MePERS unaffordable. We previously applied to DHHS for extraordinary circumstances but were denied recognition of this unique expense.
Mandated Locations	The Maine Legislature has determined size and locations of MVH facilities by statute over the years without regard to financial viability or sustainability. Our small and rural homes in Machias and Caribou sustained more than \$1M in operating losses in FY18. This recurring deficit must be absorbed by the other Homes and threatens the system as a whole. To close these facilities would present huge access and economic impacts to their regions. In addition, new statute may be required to make any changes to current locations.
Limited to serving Veterans	State Veterans Homes may only admit veterans and eligible family members, of which at least 75% must be veterans and no more than 25% of eligible non-veteran family members at any time. On occasion, we cannot admit a spouse who is on the waiting list because of the 75/25 rule. This requirement has resulted in lost admissions and revenues in the past, as well as precludes us from really competing for other potential clients and payers.
70% Program	Service-connected disabled veterans must be admitted to the SVH under this program and their Medicare Parts A and B cannot be utilized regardless of resident's choice. The VA prevailing rate is significantly less than Part A RUG rates and the SVH must pay for provider services that would otherwise be covered under Part B. Impact to MVH was approximately \$520K in lost revenues plus physician costs in FY18.
Differences in Resident Populations	MVH is vastly different from other nursing homes in the makeup of its residents and their care needs. Over 80 percent are male – the opposite is true for most community nursing homes. Males are larger, require more attendants for safe care, and their medical needs tend to be more complex, especially for veterans with post-traumatic stress disorder and other service-connected injuries. Because of this extraordinary circumstance, it can be argued that our direct care workers work harder and are at greater risk than direct care workers in peer facilities – we have seen this cited in exit interviews.
VA ADDITIONAL AND UNIQUE REQUIREMENTS	
Licensed Nurse (RN) Coverage	VA requires RN coverage for 24 hours 7 days per week. State requirement is 8 hours 7 days per week. Estimated cost differential to provide for this higher staffing requirement (Medicaid share) in FY16 was \$343,000.

MVH – Extraordinary Circumstances, Costs and Additional Requirements

Physician Assessment	VA requires a medical doctor to complete the History & Physical MD within 72 hours. Peer facilities do not have this mandate. In addition, the State allows physician extenders to see residents in place of MD. VA requires an MD to see the patient on alternating months.
Aging in Place	VA does not permit aging in place, which the State allows. As a result, MVH Residential Care case-mix and reimbursement rate are lower than state averages and significantly lowers Medicaid reimbursements.
Bed Holds	VA has 90% occupancy to be eligible for bed-hold payment for veterans that does not apply to other community nursing homes. As a result, MVH lost approximately \$61K in FY18 because of this rule.
Room Size	VA standard for resident space is nearly 50% higher than State limit, contributing to higher plant and housekeeping costs than peers. As a result, construction, maintenance and housekeeping costs are generally higher than our peers' costs. The VA standard is 150 SF per resident to State 100 SF per resident for single rooms. The VA standard is 115 SF per resident to State 80 SF per resident for semi-private. The VA standard for small-house model is even greater at 300 SF per general resident bedroom and 100 SF per resident general bathroom. The new Augusta facility will feature approximately 325 SF for combined resident bedroom/bathroom space.
VA Annual Survey	MVH must undergo 3-5 day full survey by the VA in addition to the annual State survey. For contracted community nursing homes, the VA performs an annual record review of their VA residents and only a biennial environmental survey. These full survey requirements are duplicative and consume significant time and resources that peers do not have to undergo.
Fire Marshal	MVH must undergo a full fire marshal inspection as part of the annual VA survey in addition to State survey requirement. This requirement is duplicative and can consume significant time and resources that peers do not have to undergo.
Sentinel Events	VA requires reports on every sentinel event and follow-on review, including Root Cause Analysis. The state does not have similar requirement for nursing home peers.
Credentialing	VA requires credentialing of all medical directors, physicians, physician extenders, and contracted providers. The state does not require nursing home peers to perform credentialing to this extent.
Duplicative Billing and Reporting	VA requires unique billing and census reporting in addition to Medicare, Medicaid, and other payer submissions. These requirements are duplicative and consume significant time and resources that peers do not have to perform.
Audit	MVH requires an additional audit under Uniform Guidance 2CFR 200 subpart F that peer nursing homes do not have to undergo.
Resident Admission and Assessment Reporting	The VA requires that all SVH admission and assessment reporting be done electronically on their automated reporting system. This mandate is duplicative and consumes significant time and resources that peers do not have to perform.

Attachment 3

Maine Veterans' Homes					
MaineCare NF Shortfall Analysis					
FYE 6/30/2020					
	FY 2020	FY 2019	FY 2018	FY 2017	FY 2016
	MaineCare	MaineCare	MaineCare	MaineCare	MaineCare
	<u>Shortfall</u>	<u>Shortfall</u>	<u>Shortfall</u>	<u>Shortfall</u>	<u>Shortfall</u>
Augusta	(471,453)	(20,799)	(518,290)	(\$299,620)	(\$341,846)
Bangor	(622,164)	(353,651)	(830,337)	(\$687,096)	(\$533,690)
Caribou	(913,885)	(618,989)	(484,721)	(\$390,471)	(\$469,831)
Scarborou	(1,387,604)	(779,524)	(1,073,247)	(\$902,804)	(\$825,651)
South Pari	(753,622)	(577,695)	(696,790)	(\$563,530)	(\$528,075)
TOTAL	(\$4,148,728)	(\$2,350,659)	(\$3,603,385)	(\$2,843,521)	(\$2,699,094)