

**Congress of the United States**  
**House of Representatives**  
Washington, DC 20515-1314

September 28, 2016

The Honorable Robert A. McDonald  
Secretary  
U.S. Department of Veterans Affairs  
810 Vermont Avenue, NW  
Washington, D.C. 20420

Dear Secretary McDonald,

In the summer of 2015 Congress passed and the President signed the Surface Transportation and Veterans Health Care Choice Improvement Act, which set up a Veterans Choice Program (VCP) that gave local Veterans Affairs facilities more than a year to implement the law and its updates to approved health care providers for our nation's veterans.

The law requires the VA to cover and reimburse an enumerated group of new providers, in addition to any provider participating in a state Medicaid plan under Title XIX of the Social Security Act. In particular, this clarification covers vital home care services for veterans in my district in Illinois and across the country. However, despite the clear language in legislation that became a public law more than a year ago, local VA facilities are refusing to update their contracts to cover providers they are legally required to recognize and reimburse.

I am hearing from home health care services providers, who are participating in a state Medicaid plan and should be covered under the VCP, that veterans they would like to treat are paying for services privately instead of waiting indefinitely for reimbursement from the VA. Other veterans are getting lost in the system, being sent to the emergency room because they have no provider or trying to navigate a maze of reimbursable and non-reimbursable providers with no continuum of care.

This is not my first communication with the Department of Veterans Affairs. Upon my initial request that the Department urge these local facilities to immediately update their provider contracts, I was told that meeting the requirements of the 2015 law (i.e., participating in a state Medicaid plan) is insufficient. According to Dr. Gene Miglaccio, Deputy Chief Business Officer for Purchased Care, "Medicaid participating providers would also have to meet the 'same or similar' credentials and licenses as those determined by the Secretary. Existing contracts cannot be modified until the definition of 'same or similar' requirements for skilled home health care providers has been determined." Dr. Miglaccio also noted that a contract modification that would include Medicare-eligible providers that participate in a state Medicaid plan has been proposed. I

was left without a timeline, next steps, or a solution to the problem, all while veterans wait for the care they need and suffer without it.

To me, it seems as if the VA is simply obstructing home care services for veterans either illegally, indolently, or both. Nowhere in the provision regarding state Medicaid plan participation does the law stipulate that these providers must meet additional requirements on top of the one articulated. Furthermore, when asked when the Secretary might promulgate rules regarding these mysterious requirements, my office received no response. When home health care providers in my district and in other states affected by this unexplained discrepancy reached out to local and regional VA facilities, they were met with non-answers and empty promises that contracts will be updated “any day now.” The law passed more than a year ago – how long will it be until “any day now?”

And so, for the disabled veterans waiting still for home care services and for the small businesses who cannot provide care to the patients who need and deserve it the most, I ask, where does the VA get its authority to make demands of veterans’ health care providers that are superfluous to the law Congress passed and the President signed? When does the VA plan to define these superfluous requirements, and how long is too long to offer definitions for the words “same” and “similar”? How many veterans in how many states are at home waiting for physician visits, and how dire will the lack of follow-up care and medication adherence assistance be for these men and women and their loved ones? How can the VA sit on contract modification proposals and allow internal review processes to carry on indefinitely at the expense of our veterans?

If “the VA is determined to provide exceptional, high-quality care and services for our veterans,” as you said in your initial response letter to me, why aren’t you following through on your promise to these men and women and promptly addressing this issue?

I appreciate your timely attention to this concern and look forward to your response.

Sincerely,



Randy Hultgren  
Member of Congress