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United States Senate

CHARLES E. GRASSLEY
PRESIDENT PRO TEMPORE EMERITUS
WASHINGTON, DC 20510–1501

January 12, 2022

Denis McDonough
Secretary of Veterans Affairs
U.S. Department of Veterans Affairs
810 Vermont Ave, NW
Washington, D.C. 20420

Dear Secretary McDonough,

The Department of Veterans Affairs has an obligation to provide quality health care to eligible veterans in a timely manner. While many veterans are well-served by their VA facility, I am increasingly concerned that many veterans in Iowa and across the country are not able to access the care that they have earned. In 2014, congressional oversight uncovered that veterans across the country were waiting months for medical care. In addition, employees of the VA were knowingly manipulating wait-time data to obfuscate the problem.

Since that time, Congress has passed a series of laws making it clear that congressional intent is to provide veterans who are unable to be appropriately served by the VA with care from community providers. Since the 2014 passage of the Veterans Choice Act, the VA has failed to meet the expectations of veterans and lawmakers, and has persisted in making access to community care burdensome and difficult for veterans and community providers who wish to serve them.

In 2018, Congress passed the VA MISSION Act, which included a new model for the delivery of community care, consolidating all non-VA care into one program, and changing the eligibility standards for community care from those put in place by the 2014 legislation. The intention was to streamline access to community care when the veteran would be better served by a non-VA provider, for reasons ranging from the needed service not being offered by the VA, to time or distance barriers to getting an appointment. The new standards stipulate that veterans are eligible for community care if they have to wait more than 20 days from the date of request for primary or mental health care, or have to wait more than 28 days from the date of request for specialty care[1]. Additionally, veterans are eligible if they have to drive more than 30 minutes for primary or mental health care, or more than 60 minutes for specialty care, if they live in a state with no full VAMC, or if they were previously eligible under the Choice Program[2]. Finally, veterans are supposed to be eligible for community care if it is determined to be in their best medical interest

[1] 38 CFR § 17.4040
[2] 38 CFR § 17.4040

to see a non-VA provider. The VA is to remain the coordinator of care for veterans, even as they are seen by non-VA providers[3].

There have been reports of the VA using outdated scheduling practices that distort wait times and make it seem as if a veteran is not eligible for community care when he or she is. Additionally, there was widespread cancellation of appointments during the COVID-19 pandemic without documentation of patient knowledge, another method used by VA staff in the past to artificially lower wait times[4]. Additionally, VA guidance on referrals to community care seems to direct VA staff to caution veterans against choosing community care when they are eligible[5].

When a veteran faces a long wait time at the VA, or is better-served by a community provider, it is imperative that he or she does not face obstacles to accessing health care. Therefore, I request a response to the following questions. In your response, please provide relevant written guidance or policies.

1. Do VA schedulers use the date of request or another date, such as a patient-indicated date, to determine if a veteran who is requesting an appointment would be required to wait longer than 20 days for a primary care or mental health appointment, or 28 days for a primary care appointment?

2. Is cancelling and rescheduling appointments without patient permission an acceptable practice according to VA guidance for staff? If so, why? If not, what measures are in place to ensure that patients are providing consent and their consent is documented before their appointments are rescheduled or cancelled?

3. If an appointment is cancelled and rescheduled by the clinic, what date is used as the "start of the clock" to determine if the patient should be offered community care based on needing to wait longer than 20 days for a primary care appointment or 28 days for a specialty care appointment at the VA, and why?

4. VA guidelines require it to be noted in a veteran's file when he or she is eligible for community care but declines it. What policies are in place to ensure that all veterans who are eligible for community care are offered this option and documentation is made if they decline?

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[3] 38 CFR § 17.4040

[4] https://www.va.gov/oig/pubs/VAOIG-20-02794-218.pdf

[5] https://americansforprosperity.org/wp-content/uploads/2021/09/Referral-Coordination-Initiative-Guidebook.pdf#page=62

5. A phone script provided in VA guidance to employees includes phrases cautioning veterans that choosing to be seen at the VA instead of in the community will allow the VA to better coordinate their care. The MISSION Act requires the VA to be the coordinator of care for veterans who use community care. Is the policy of the VA to be neutral in advising veterans of their options and eligibility for community care, and is VA policy accurately reflected in these sample scripts?

6. Going forward what steps will the VA take to ensure that there is transparency and veterans have trust in the community care scheduling process?

Thank you for your prompt reply to these inquiries.

Sincerely,

Charles E. Grassley