

Congress of the United States
Washington, DC 20515

June 29, 2020

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

Dear Secretary Wilkie,

Thank you for yours and President Trump's efforts in leading our veterans through the Chinese-born coronavirus outbreak. As the various states begin to free their economies from draconian coronavirus restrictions, it is critical for the Department of Veterans Affairs (VA) to immediately overturn any related bureaucratic actions that threaten our veterans' health care freedom.

We are concerned with reports that the Department of Veterans Affairs (VA) has issued new guidance that is limiting access to health care choices for veterans enrolled in the Veterans Health Administration (VHA) in contravention of the VA MISSION Act of 2018 (P.L. 115-182) access standards (84 FR 26278).

The timeline of events is as follows:

March 20, 2020 - Deputy Under Secretary for Health for Operations and Management (10N) issued a memorandum to VISN leadership instructing them to pause the use of access standards to authorize referrals to the Veterans Community Care Program (VCCP). That guidance lacked reference to the specific legal authority for the decision and looks to be unlawful, as the VA MISSION Act and its implementing regulations *requires* VA authorization when the veteran who requests community care meets certain specified conditions.

March 24, 2020 - An email to Capitol Hill staff outlined the VA's decision to pause VA MISSION Act access standards for 90 days, or until routine care could safely resume.

March 25, 2020 - In email correspondence with veterans' organizations, the VA denied any change in policy regarding VA MISSION Act community care options, specifically denying they were pausing the VCCP, but nevertheless stated that community care requests would be evaluated on a case-by-case basis.

March 30, 2020 - VHA communications distributed to the field Response to Query (RTQ) guidance on temporary suspension of community care during COVID-19. As with the March 25, 2020 email, the RTQ states that the VA is not stopping or pausing the law but that VA referral requests will be reviewed on a case by case basis regardless of wait time or drive time eligibility under the access standards.

We request detailed answers to the following by no later than July 10, 2020:

1. Has the VA limited or denied referrals to the Veterans Community Care Program despite the veteran meeting one of the six eligibility criteria? Are veterans advised they may request a non-clinical appeal?

2. What is the specific legal authority the VA is using to deny or limit authorizations? Who at VA health care facilities is making those decisions regarding denying or delaying care for veterans? Were geographic differences in the spread of the coronavirus taken into consideration?
3. Have authorizations to outside care been denied because of the lack of willing community providers to deliver care, or simply because the VA refused to authorize care? What percentage of referrals to outside care went unfilled?
4. Is the memo issued on March 20, 2020 still in effect?
5. What is the process the VA is following to ensure eligible veterans left waiting to access care in the community still receive appropriate follow up and care options? Is there a review process for veterans denied care (i.e. after two weeks, four weeks) to reevaluate the clinical necessity of the care requested?
6. Did the VA consult Third Party Administrators (Optum and TRIWEST) to determine if capacity existed in the community to deliver care? Has the VA identified a process for reevaluating authorizations for community care referrals?
7. For veterans denied community care referrals, did the VA offer those veterans access to telehealth either through the VA or the VCCP?
8. What has the VA done to educate veterans on their options amidst the current pandemic? Specifically, what has the VA done to ensure veterans needing ongoing health care treatment do not face interruptions in care?
9. Did the VA consult with the Center for Disease Control or the National Institutes of Health before making this decision? How did the VA determine a 90-day timeline for a "pause" in community referrals was appropriate?

The VA MISSION Act created an abundance of new options for veterans to seek access to care outside of the traditional VA health care system to meet their unique individual needs. It is important that the VA does not create artificial barriers to care that lack legal authority and may in fact do more harm than good. The current coronavirus outbreak is certainly unprecedented and the VA is facing significant hurdles in ensuring veterans can safely access care, however, it is vitally important that the VA follow the law and not arbitrarily limit or deny health care options for veterans.

We look forward to your response.

Sincerely,



Andy Biggs
Member of Congress



Ralph Abraham, M.D.
Member of Congress



Chip Roy
Member of Congress



W. Gregory Steube
Member of Congress