

United States Senate  
WASHINGTON, DC 20510

November 14, 2014

The Honorable Robert A. McDonald  
Secretary of Veterans Affairs  
810 Vermont Avenue, NW  
Washington, DC 20420

Dear Secretary McDonald:

We write to urge the Department of Veterans Affairs (VA) to comply with the intent of the Veterans Access, Choice, and Accountability Act of 2014 (VACAA) by offering non-VA care to veterans who are unable to receive healthcare services from a VA medical facility within 40 miles. The VA should either implement the law as intended under VACAA or pursue existing authorities under Title 38 to provide access to quality healthcare that veterans deserve.

In response to VA wait time manipulation and failure to provide timely, quality healthcare to veterans, Congress passed VACAA with the express purpose of improving transparency at the VA and providing veterans the choice to access healthcare outside the VA healthcare system when timeliness and distance put their well-being at risk. Unfortunately, the VA's decision to exclude veterans who live within 40 miles of a VA facility, but who may be in need of a service or treatment not available at that facility, from the 40-mile eligibility criteria limits veterans' choice and runs counter to Congressional intent. It was Congress's intent that if veterans cannot receive VA care within 40 miles of their home, they be permitted to receive non-VA care within the local community.

Based on your testimony before the Senate Veterans' Affairs Committee in September, we understood that it is your desire to carry out VACAA as it was intended and in the best interest of the veteran. Regrettably, the VA's interpretation of the 40-mile eligibility criteria is inconsistent with your message and guidance. Due to numerous discussions on this issue, the VA has agreed to a review utilizing existing authorities to identify the types of non-VA healthcare services that may be offered to a veteran when the same services are not available at a VA facility within 40 miles. We are concerned that this narrow review will fail to guard against subjective determinations by bureaucrats of which medical services warrant an exception to the 40-mile rule and which do not. For example, a service that may seem insignificant to a VA staff member who determines a three hour drive is acceptable in order to receive that care, may be quite impactful to the health and well-being of veterans. If a VA facility simply cannot offer healthcare services veterans are requesting, regardless of the size and capability of that facility, the VA can and should provide veterans the choice of utilizing non-VA care closer to home.

While we would prefer that the VA adjust its interpretation of the 40-mile eligibility criteria, an effective use of existing authorities would be to allow VA Medical Center (VAMC) Directors to exercise their discretion in the use of fee-basis care if it is determined the veteran would be unduly burdened by excessive travel. We urge you to direct VAMC Directors to exercise their discretion in authorizing non-VA care for veterans who reside more than 40 miles from a VA facility that provides the health care services the veteran requires.

Based on the commencement of the Choice Card deliveries to veterans, we request an opportunity to meet with you and discuss this issue in-person. We strongly encourage you to adjust VA's interpretation of the 40-mile eligibility criteria or utilize existing authorities to coincide with Congressional intent as stated in the VACAA Conference Report. Our veterans deserve nothing less. We look forward to your timely response, and thank you for your commitment to our nation's veterans.

Sincerely,



Mike Johanns  
United States Senator



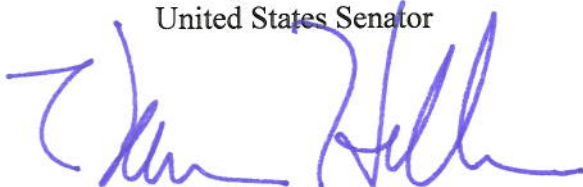
Jerry Moran  
United States Senator



Johnny Isakson  
United States Senator



John Boozman  
United States Senator



Dean Heller  
United States Senator