

# United States Senate

WASHINGTON, DC 20510

June 21, 2017

The Honorable David J. Shulkin  
Secretary of Veterans Affairs  
U.S. Department of Veterans Affairs  
810 Vermont Avenue NW  
Washington, DC 20420

Dear Secretary Shulkin,

We write to you regarding troubling reports of financial mismanagement in Department of Veterans Affairs (VA) community care accounts. Last week, you testified before the Senate Veterans Affairs Committee that the VA will no longer have enough funds required to operate the Veterans Choice Program, the VA's fastest growing and most-utilized community care program. This development is deeply disturbing.

Based on previous testimony you provided to Congress, the Veterans Choice Program would have had about \$1.1 billion left when the program was set to expire on August 7, 2017. You also testified that removing this sunset date would have allowed the Veterans Choice Program to extend well beyond this fiscal year and at least partially into fiscal year 2018. On that basis, both the Senate and the House worked diligently to pass the *Veterans Choice Continuation Act* to ensure the Veterans Choice Program would continue without disruption, and give Congress and the VA time to deliberate about the next version of Choice.

Since then, you've realized that due to strong demand for the Veterans Choice Program among veteran patients, the expenditure for the program was higher than anticipated – so much so that the VA will no longer have enough funds to operate the Veterans Choice Program through the current fiscal year. This discovery prompted the VA to hastily and carelessly decide to stop referring patients through the Veterans Choice Program under Choice First. As you know, Choice First has been vital in allowing veterans to access services not provided at the VA, such as chemotherapy, heart transplants and other lifesaving treatments. As a result, the VA instructed its Medical Centers to route all care through the traditional community care process.

The consequences of the VA's decision are profound. We are especially concerned about your decision to halt Choice First, which represents 50-85 percent of the care that third-party administrators (TPAs) coordinate. Without Choice First, these TPAs will effectively collapse and the VA will lose billions of dollars in investments that have made the Veterans Choice Program successful. Currently, 30 percent of total VA care is coordinated through the Veterans Choice Program. If you allow TPAs to collapse, the VA will reassume responsibility for coordinating care, which the VA has neither the infrastructure nor the capacity to do. The results of such a scenario would be catastrophic.

The VA has put Congress in yet another precarious situation of the VA's own making: either bail out the VA so it can avoid a FY17 shortfall or allow the Veterans Choice Program to collapse. Presented with these limited options, we seek a detailed and thorough explanation as to what the VA needs to sustain the Veterans Choice Program through the remainder of the fiscal

year as well as how the VA will keep the Veterans Choice Program up-and-running into fiscal year 2018.

It is essential that the VA immediately corrects the failures that created this dire situation. We request you answer the following questions:

1. You have asked Congress to pass legislation that allows the VA to freely transfer funds between all community care accounts. Does the VA have sufficient funds in these existing accounts to fully supplement the Veterans Choice Program through FY17? What legislative barriers prevent the VA from merging the community care accounts? Will you, for example, be in violation of the *Antideficiency Act* if Congress does not provide the aforementioned funding flexibility?
2. Given the gravity of this situation, in your opinion, if additional funds are required - should the funds require an emergency designation?
3. Between March and May of this year, veterans' participation in the Veterans Choice Program increased substantially – far exceeding forecasted estimates. Why didn't the VA immediately notify Congress about the funding challenges this would pose to the Veterans Choice Program?
4. It is clear that the model the VA has been using to forecast anticipated costs is not accurate or reliable. What steps will you take to collect more accurate and reliable data to inform future projections and budget decisions regarding the Veterans Choice Program? What heightened level of transparency and oversight can Congress expect to have to ensure the reliability of any future funding requests?
5. When you asked Congress to eliminate the sunset date for the pilot of the Veterans Choice Program, you also asked to become the primary payer for this program. However, as previously noted, the VA has not demonstrated an ability to accurately forecast the cost of care. Moreover, the VA does not have any historical data in place to predict the costs of becoming the primary payer. What, if any, measures have you taken to account for this in the Veterans Choice Program shortfall request for FY17 and FY18?

While the VA's budget has nearly tripled over the last decade, the VA has retained its position on the Government Accountability Office's (GAO) "high risk" list year after year. The GAO recently expressed concern "about the VA's ability to ensure its resources are being used cost-effectively and efficiently to improve veterans' timely access to health care, and to ensure the quality and safety of that care." Given the current situation before us and the GAO's assessment, we are deeply concerned about your ability to reliably deliver quality care to our veterans.

Unless Congress appropriates emergency funding to continue the Veterans Choice Program, hundreds of thousands of veterans who now rely on the Choice Card will be sent back to a VA that cannot effectively manage or coordinate their care. This is only one symptom of many larger issues that have plagued the VA for years, and that will continue until we achieve true reform. As a nation, we cannot send our veterans back to the pre-scandal days in which veterans were subjected to unacceptable wait-times for appointments and were treated more like a burden instead of heroes who deserve the best care our country has to offer.

Thank you for your prompt attention to this request.

Sincerely,

Handwritten signature of John McCain in blue ink.

John McCain  
United States Senator

Handwritten signature of Jerry Moran in blue ink.

Jerry Moran  
United States Senator

Handwritten signature of Thom Tillis in blue ink.

Thom Tillis  
United States Senator

Handwritten signature of Dean Heller in blue ink.

Dean Heller  
United States Senator