

STATEMENT OF
CARLOS FUENTES, DIRECTOR
NATIONAL LEGISLATIVE SERVICE
VETERANS OF FOREIGN WARS OF THE UNITED STATES

FOR THE RECORD

UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON VETERANS' AFFAIRS

WITH RESPECT TO

“Shaping the Future: Consolidating and Improving VA Community Care”

WASHINGTON, DC

MARCH 7, 2017

Chairman Roe, Ranking Member Walz and members of the House Committee on Veterans' Affairs, on behalf of the nearly 1.7 million members of the Veterans of Foreign Wars of the United States (VFW) and our Auxiliary, I thank you for the opportunity to submit a statement for the record regarding the Choice Program and how to consolidate and improve VA community care.

The VA health care system delivers high quality care and has consistently outperformed private sector health care systems in independent assessments. The VFW's numerous health care surveys have also validated that veterans who use VA health care are satisfied with the care they receive. In fact, our latest survey found that 77 percent of veterans report being at least somewhat satisfied with their VA health care experience. When asked why they turn to VA for their health care needs, veterans report that VA delivers high quality care which is tailored to their unique needs and because VA health care is an earned benefit.

VA has made significant strides since the access crisis erupted in 2014 when whistleblowers across the country exposed how long veterans were waiting for the care they have earned and deserve. However, VA still has a lot of work to do to ensure all veterans have timely access to high quality and veteran centric care. But VA cannot be everything for everyone. It must leverage private sector providers and other public health care systems to meet its obligation to the veterans it was created to serve, but community care is only part of the solution.

Veterans deserve reduced wait times and shorter commutes to their medical appointments. This means turning to community care when needed, but also means improving VA's ability to provide direct care. The VFW thanks Congress for its commitment to improving VA's community care authorities and programs. VA also needs the resources and authorities to quickly recruit and properly compensate a high performing health care workforce, properly train its employees, hold wrongdoers accountable, and update its aging capital infrastructure.

In the past three years, the VFW has assisted hundreds of veterans who have faced delays receiving care through the Choice Program, and has surveyed more than 8,000 veterans specifically on their experiences using VA community care and the Choice Program. Through this work, the VFW has identified a number of issues with the program which must be addressed. For example, veterans continue to receive bills from private sector doctors who were unable to receive payment from VA because of complicated rules determining when VA is able to pay and when it serves as a secondary payer. Veterans should never be billed for care that VA is responsible for paying. To address this issue, the VFW urges Congress to remove the secondary payer requirement under the Choice Program.

Choice Program doctors also tell us it takes too long for them to receive the medical documentation from VA that they need in order to treat veterans. One doctor said “it’s easier to get gold out of Fort Knox, than it is to get medical records from VA.” VA is taking steps to improve this process and will implement a new program soon to ensure Choice providers can view a veteran’s medical record. However, an outdated law which requires VA to withhold the medical information of veterans who have been diagnosed with substance use disorder, human immunodeficiency virus, and sickle cell anemia hinders VA’s ability to transfer medical records with its community care partners. Congress must remove this statutory limitation to ensure veterans who use the Choice Program do not encounter scheduling delays.

As the VFW has highlighted in our two Choice Program reports, which can be found on our website, www.vfw.org/vawatch, the eligibility criteria for the Choice Program must also be reformed. The VFW thanks this Committee and VA for making several VFW recommended improvements to the Choice Program, such as measuring mileage by driving distance instead of “how the crow flies” and making the clinically indicated date the date on which veterans become eligible for community care. However, several recommendations remain.

First, the VFW firmly believes that VA must reevaluate how it measures wait times. In the VFW’s most recent VA health care report, only 67 percent of veterans indicated they had obtained a VA appointment within 30 days, which is significantly less than the 93 percent VA reported in its most recent access report. This is because the way VA measures wait times is not aligned with the realities of scheduling a health care appointment.

VA uses a metric called the preferred date to measure the difference between when a veteran would like to be seen and when they are given an appointment. However, this completely ignores and fails to account for the full length of time a veteran waits for care. For example, when veterans call to schedule an appointment they are asked when they prefer to be seen. The first question they logically ask is, “When is the next available appointment?” If VA’s scheduling system does not preclude them from doing so, schedulers have the ability to input the medical facility’s next available appointment as the veteran’s preferred date — essentially zeroing out the wait time. VA must correct its wait time metric to more accurately reflect how long veterans wait for their care.

However, VA’s wait time measurement must not be used as an eligibility criterion for the Choice Program. While the VFW agrees that using a clinically indicated date to determine eligibility is the right approach, we do not believe Congress or VA should dictate how long veterans must

wait before receiving care from community care providers. Arbitrary thresholds such as 30-days or 40-miles do not reflect the health care landscape of our country. Veterans may not need to be seen within 30 days for appointments such as routine checkups. Likewise, such arbitrary thresholds do not account for veterans with urgent medical needs for which they need to be seen before 30 days, or veterans who suffer from disabilities which prevent them from traveling 40 miles.

A recent independent assessment on VA access standards by the Institute of Medicine (IOM) was unable to find a national standard for access similar to the Choice Program's 40-mile and 30-day standards. Instead of focusing on set mileage or days, IOM found that industry best practices focus on clinical need and the interaction between clinicians and their patients. That is why Congress should not dictate eligibility for community care with arbitrary or federally regulated access standards, such as 30-days or 40-miles. When and where a veteran needs to be seen is a clinical decision made between a veteran and his or her doctor.

Overall, Congress and VA must take the lessons learned from the Choice Program and other community care programs such as Project ARCH, Project HERO, and PC3, and create a single, sustainable community care program that integrates the private sector into the VA health care system. VA has outlined its vision for consolidating its community care programs in a report it was required to send Congress under Public Law (PL) 114-41, the *Surface Transportation and Veterans Health Care Choice Improvement Act of 2015*. It is time for Congress to act on VA's proposal to ensure VA is able to transform the way it provides community care.

Congress' self-imposed budget rules have stopped several bills that would have enabled VA to begin implementing its consolidation plan. As the Choice Program gets closer to expiring, Congress continues to debate on the way forward. Instead of waiting until the 11th hour to act on a consolidation bill, which would limit VA's ability continue to serve veterans, Congress must allow VA to continue the Choice Program under its existing community care authorities.

To be clear, VA has the authority to carry out the Choice Program past its expiration and is willing to do so, but lacks the community care appropriations. While it would be best for Congress to pass a consolidation bill that would improve the Choice Program and consolidate VA's numerous community care authorities, the VFW does not believe Congress can do so without slowing or degrading VA's ability to carry out the existing program. That is why the VFW believes it is best for Congress to simply provide VA the resources it needs to carry out the program under its existing authorities, rather than move forward with a comprehensive community care consolidation bill which is unlikely to become law.

Veterans have used approximately \$3 billion in care through the Choice Program per year and that demand for care will only continue to increase as more veterans turn to VA for their health care needs. VA currently sends nearly 200,000 authorizations for care a month through the Choice Program and will be required to immediately cease the program — requiring it to start from scratch and losing the trust and confidence it has worked so hard to restore — if it does not receive the funding needed to continue the program before it expires.

VA estimated that its authority to use the \$10 billion emergency mandatory appropriations account Congress created to fund the Choice Program will expire before funds are fully exhausted. To ensure these funds are used for their intended purpose, the VFW supports eliminating the expiration of this account. But to be perfectly clear, the VFW would oppose any future efforts to refill this account. Appropriations for VA community care must be included in VA's annual budget. Furthermore, VA must have that ability between its community care and medical services accounts to ensure care is delivered where veterans demand it, not where Congress dictates.

VA has also requested authority to develop a nationwide system of urgent care at existing VA medical facilities, and to reimburse veterans for urgent care they receive from smaller urgent care clinics around the country to fill the gap between emergency care and traditional appointment-based outpatient care. Doing so would ensure veterans with acute medical conditions that require urgent attention, such as the flu, infections, or non-life threatening injuries, do not wait days or weeks for a primary care appointment. Establishing urgent care would also curb the reliance on emergency rooms for non-emergent care, which is more expensive for veterans and VA. The VFW urges Congress to consider and swiftly pass legislation authorizing VA to reimburse veterans for using community urgent care clinics.

The VFW also urges Congress to swiftly pass provider agreement legislation. Authorizing VA to enter into non-federal acquisition regulation (FAR) based agreements with private sector providers, similar to agreements under Medicare, would ensure VA is able to quickly provide veterans with care when community care programs like the Choice Program are not viable options.

Provider agreements are particularly important for VA's ability to provide long-term care through community nursing homes. The majority of the homes who partner with VA do not have the staff, resources or expertise to navigate and comply with FAR requirements and have indicated they would end their partnerships with VA if required to bid for FAR contracts. In fact, VA's community nursing home program has lost 400 homes in the past two years and will continue to lose 200 homes per year without provider agreement authority. This means thousands of veterans are forced to leave the place they have called home for years simply because VA is not able to renew agreements with community nursing homes. Congress must end this injustice by quickly passing provider agreement legislation.

Information Required by Rule XI2(g)(4) of the House of Representatives

Pursuant to Rule XI2(g)(4) of the House of Representatives, the VFW has not received any federal grants in Fiscal Year 2016, nor has it received any federal grants in the two previous Fiscal Years.

The VFW has not received payments or contracts from any foreign governments in the current year or preceding two calendar years.