

March 4, 2015

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

Re: Expanded Access to Non-VA Care through the Veterans Choice Program (RIN 2900-AP24)

Dear Secretary McDonald:

On behalf of the physician and medical student members of the American Medical Association (AMA), I appreciate the opportunity to provide comments on the Interim Final Rule issued by the U.S. Department of Veterans Affairs (VA) regarding implementation of the Veterans Choice Program, which was authorized under the Veterans Access, Choice, and Accountability Act of 2014. The AMA strongly supported passage of this legislation, especially the provisions creating the Veterans Choice Program, and helped influence the final language to ensure that privately practicing physicians would be eligible to participate in the program. The Veterans Choice Program directs the VA to establish a program to furnish hospital and medical services through non-VA health care providers to eligible veterans who either cannot be seen within the wait-time goals of the VA or who qualify based on their place of residence.

Since the Veterans Choice Program began to be implemented several months ago, the AMA has been concerned about reports that veterans have been having difficulty accessing care through the program. We believe this is in part due to a narrow interpretation by the VA in the Interim Final Rule of eligibility criteria allowing veterans to participate in the new program. The AMA is also concerned that restrictive payment policies in the rule could limit physician participation in the program, contrary to the intent of the authorizing law. We discuss these issues and additional concerns below.

Veterans' Access to Care: Eligibility Criteria and Specialty Care

The VA recently reported that, although the Choice card has been distributed to approximately 8.5 million veterans across the country, only 27,000 veterans had made appointments for private medical care as of the middle of February. While we understand that the program is new and veterans may still be learning how to use their Choice card, the manner in which the VA is construing the eligibility criteria for veterans may be contributing to the low number of veterans participating in the program. As you know, the Choice program offers veterans the option to receive non-VA health care rather than waiting for an appointment within the VA health system if there is a significant delay in scheduling an appointment or a veteran has to travel more than 40 miles to receive care. Trips to VA medical centers or facilities can be challenging for many veterans, especially those in rural areas.

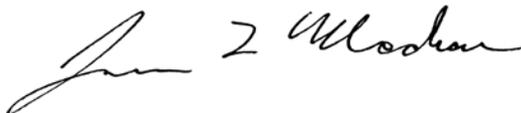
The VA's definition of the eligibility criteria related to distance is problematic for two reasons. First, the VA regulation calculates the distance of 40 miles between a VA's residence and the nearest VA medical facility using a straight line distance or "as the crow flies," rather than the actual distance the veteran would have to travel [§ 17.15109e)]. This interpretation is too narrow and would seem to contravene congressional intent, which was to reduce barriers to care for veterans. We believe this construction is excluding many veterans from the Veterans Choice program who could benefit from it, and we urge you to change the definition so that it is more flexible and takes into account the actual distance that a veteran would have to travel. The second aspect of the definition that is troubling is that the VA is not considering the type of care available within 40 miles of a veteran's residence. A veteran may need specialty care that is only available at a full service VA medical center, yet, under the interim final rule, the veteran would be deemed ineligible if he or she lives near a community-based outpatient clinic, even though the clinic does not offer the needed specialty care. We urge you to be more flexible in construing the type of facility and care needed by veterans.

Payment Rates

Under the Veterans Choice program authorizing statute, payment rates to non-VA physicians and other providers who agree to provide services to veterans may not exceed Medicare rates, except in highly rural areas. The AMA is very concerned about reports indicating that some physicians have been offered reimbursement rates that are 30 percent less than Medicare physician payment rates, which are already on average below private insurer rates. The AMA strongly believes that payment at or above Medicare rates is necessary in order to fulfill the intent behind the Veterans Choice Program, e.g., increase timely access to care for our nation's veterans by allowing eligible veterans to access care outside the VA health system. While many of the AMA's members want to participate in the program and provide care to veterans, it will not be financially feasible for them if the payment rates that are offered to them do not at least match Medicare rates. Similarly, we are concerned about the VA's decision that no copayments are owed at the time of service for veterans receiving care through the Veterans Choice program. The interim final rule indicates that the VA will determine copayment amounts owed retrospectively after the non-VA physician bills the VA for the cost of care provided. Most physicians collect copayments at the time of the visit, and this proposal would substantially disrupt the normal workflow and billing practices, and puts the physician's office in the position of trying to collect a copayment long after the care is provided to the patient. The AMA believes that this will serve as yet another disincentive to physicians who otherwise would like to participate in the program.

The AMA appreciates your consideration of our views, and we remain committed to helping the VA implement this important program for the benefit of our nation's veterans.

Sincerely,

A handwritten signature in cursive script, appearing to read "James L. Madara".

James L. Madara, MD