

United States Senate

WASHINGTON, DC 20510-2309

March 11, 2015

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

Dear Secretary McDonald,

I am writing with respect to the implementation of the Veterans Access, Choice and Accountability of 2014, commonly known as the Choice Act. This was the law that Congress passed in the wake of the scandal over access to health care for our nation's veterans at the Department of Veterans Affairs (VA) last year, and I know that you share the desire to bring real reforms to VA. I have heard from a number of veterans in Minnesota about problems they are experiencing with how VA is implementing the so-called 40 mile provision of the law, and I request that you address these problems in order to better provide the timely access to high-quality care that our veterans deserve.

Among other provisions, the Choice Act enables veterans to elect to receive care from eligible non-VA health care providers on the basis of their place of residence, and specifically if they live more than 40 miles from a VA facility. This is an important way to improve access to timely, high-quality care for veterans. However, I have heard several different problems that Minnesota veterans have encountered with respect to this 40 mile provision. First, the 40 miles in the provision has been interpreted "as the crow flies" – that is, veterans are deemed by VA to live less than forty miles from a VA facility, and are therefore deemed ineligible for non-VA care under the Choice Act, if a straight line from their residence to a VA facility is 40 miles or less. But in many cases, such veterans may actually have to travel longer distances – in some cases significantly longer distances – to get to the VA facility. Veterans have reasonably made the case that 40 miles of actual distance traveled should be the relevant measure for eligibility for non-VA care under the Choice Act. I believe VA needs to be more flexible in its interpretation of the 40 mile provision for veterans to receive non-VA care.

In addition, some veterans are being deemed ineligible for non-VA care under the Choice Act if they live less than 40 miles from a VA facility even if that VA facility is unable to provide them with the care that they actually need. A recent news report in Minnesota focused on a veteran diagnosed with liver cancer who has been deemed ineligible for non-VA care because he lives 20 miles from the nearest VA facility, regardless of the fact that that facility is unable to

provide treatment. I believe that VA should take into account whether or not a veteran in need of treatment is able to receive that treatment at the closest VA facility.

In addition to the new authorities VA has as a result of the Choice Act, VA has other, pre-existing authorities to enable veterans, including veterans who live in rural areas far from VA facilities, to receive care outside the VA system. I have long sought to push VA to make better use of these authorities, particularly after a number of VA Office of Inspector General reports identified serious shortcomings in how effectively VA was employing the funds provided by Congress for veterans to receive non-VA care. One part of my Rural Veterans Health Care Improvement Act would require VA to plan more strategically in providing timely, high-quality care in rural areas through contract and fee-basis providers. And I urge you to make sure that VA is effectively using all of its authorities together to make best use of non-VA care for veterans.

Finally, I have heard from Veterans Service Organizations that some veterans are experiencing difficulty understanding how the Choice Act works. Having received the Choice Card, some veterans have gotten non-VA care, sometimes at significant cost, only to discover that they are not able to be reimbursed by VA for that care. It is essential that VA communicate as clearly as possible with veterans so that they understand the parameters of the Choice Act.

I know that you are committed to bringing reform to VA, and one part of that is making sure that veterans who live far from VA facilities can get high-quality care in a timely way, while also sustaining VA's large Medical Centers so that they can continue to provide the specialized care that the veteran community needs. The reforms in the Choice Act should be implemented in a way that best serve our nation's veterans. I also stand ready to work with you if further legislative changes are needed in order to achieve that important objective. Thank you for your attention to this important matter, and if you have any questions, please feel free to contact me, or Jeff Lomonaco on my staff, at (202) 224-5641.

Sincerely,

A handwritten signature in cursive script that reads "Al Franken". The signature is written in black ink and is positioned below the word "Sincerely,".

Al Franken
United States Senator