



AMERICAN ACADEMY OF
FAMILY PHYSICIANS
STRONG MEDICINE FOR AMERICA

February 24, 2015

The Honorable Robert McDonald
Secretary
Department of Veterans Affairs
801 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 American Academy of Family Physicians (AAFP), which represents 115,900 family physicians and medical students across the country, I write in response to the [interim final rule](#) regarding expanding veterans access to non-VA entities and providers as published by the Department of Veterans Affairs (VA) in the November 5, 2014, *Federal Register*.

The AAFP conceptually supports the intent of the *Veterans Access, Choice, and Accountability Act* of 2014 and released a [statement](#) when this important legislation passed Congress. The law directs the VA to establish a program to furnish hospital care and medical services through non-VA health care providers to veterans who either cannot be seen within the wait-time goals of the Veterans Health Administration or who qualify based on their place of residence. Now referred as the Veterans Choice Program, this interim final rule defines the parameters of this valuable program. This rule became effective on November 5, 2014. We continue to be pleased that the VA can contract with Medicare-participating family physicians and other providers to help alleviate the backlogs and other challenges veterans continue to experience when trying to receive care within certain VA facilities. The law indicated physician payment will be negotiated at rates not to exceed Medicare rates, except in highly rural areas to ensure access to care. The bill also establishes 1,500 new residency positions at the VA, with priority given to primary care and mental health.

It is, therefore, unfortunate that this interim final rule does not do much more to expand veterans' access to care from non-VA family physicians. The AAFP strongly urges the VA to make important policy adjustments to begin attracting and making it significantly easier for non-VA medical practices to participate in the Veterans Choice Program.

Rates Must Equal Medicare

The law states that VA may not pay an eligible entity or provider more than the applicable Medicare rate under Title XVIII of the Social Security Act for hospital care or medical services furnished under the Veterans Choice Program, except for in highly rural areas. The AAFP recognizes that the VA signed contracts with only two Third Party Administrators (TPAs) nationally to handle all aspects of the Veterans Choice program including card distribution, staffing call centers, counseling veterans, managing provider networks, and billing claims. However many family physicians are reporting that these TPAs, if they've

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even yet bothered to approach the practice about participating in the Veterans Choice Program, are then offering reimbursement rates that are 30 percent less than the Medicare physician payment rate.

The AAFP strongly believes that payment at or above Medicare levels is necessary to promote access to primary care services for veterans. Primary care for any population is critical to ensuring continuity of care, as well as to providing necessary preventive care, which improves overall health and can reduce total health care costs. Notwithstanding the significant limitations of the severely flawed formula Medicare uses to determine Part B physician payments, the Medicare payment rate is widely used as a benchmark by other public and private payers. Simply put, any public or private payer health plan contract that does not at least meet the Medicare payment rate will remain financially impossible for most medical practices that already operate on extremely thin margins. If the VA continues to offer contracts at less than the Medicare rate, the AAFP is concerned that most practices will not be able to participate in the program, which undermines the law's intent of expanding access to veterans. Instead, the VA should offer contracts at the Medicare rate, so family physicians and other non-VA entities can afford to treat veterans.

Furthermore, the VA and the two TPAs should provide payment to civilian physicians in the same manner as Medicare, i.e. the VA would promptly pay clean claims within 30 days.

Collection of Copayments

The VA proposes policy that clarifies that no copayment is owed at the time of service for eligible veterans receiving care or services through the Veterans Choice program. The AAFP believes the proposal for non-VA entities not to collect patient copayment and deductible at the time of service is unworkable and entirely contrary to common medical office billing practices. The interim final rule suggests that the VA will determine retrospectively the copayment amount after the provider bills VA for the cost of furnished care and those veterans may be liable for some or the entire copayment amount at that time. This puts participating physician practices in the position of collecting copayments and deductibles long after the patient has received the service and left the office, when it is harder and less cost-effective to do so. Typically, health plans identify patient copayments for primary care up front, so they may be collected at the time of service. The "provide-then-chase" model offered by the VA is yet another disincentive for primary care practices participate in the Veterans Choice program.

Veterans' Access to Rural Health Clinics

This interim final rule defines eligibility criteria for non-VA health care, including that they must be participating in the Medicare program, be a Federally Qualified Health Center, or be a part of the Department of Defense or the Indian Health Service. The AAFP believes that the VA should expand that definition to include Rural Health Clinics. While many family physicians practice in physician offices, many family physicians also practice medicine in Rural Health Clinics and veterans should have access to these centers.

Expanding Access to Primary Care

To benefit veterans and the VA health care system, the AAFP strongly urges the VA to implement policies that allow civilian family physicians to:

- Provide primary care services to eligible veterans;
- Allow prescriptions prescribed by civilian family physicians to be filled at VA pharmacies;
- Allow civilian family physicians to order diagnostic tests at VA facilities;

Secretary McDonald

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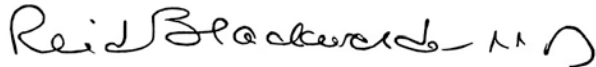
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- Allow civilian family physicians to refer patients to specialist physicians and other health care providers at VA facilities; and
- Allow civilian family physicians to provide care to eligible veterans under the protections of the *Federal Tort Claims Act*.

The Veterans Choice program appears to take aim at the first of these points. Unfortunately, it does so in a way that seems certain to minimize family physicians' interest in doing so. It also, unfortunately, does not appear to do anything to address the remainder of these points. Thus, the AAFP strongly urges the VA to make important policy adjustments to begin attracting and making it significantly easier for non-VA medical practices to participate in the Veterans Choice Program and provide primary care that our veterans so clearly deserve.

We appreciate the opportunity to comment on this interim final rule, and the AAFP remains prepared to encourage our members to do what they can to provide care to eligible veterans. For any questions you might have, please contact Robert Bennett, Federal Regulatory Manager, at 202-232-9033 or rbennett@aafp.org.

Sincerely,

A handwritten signature in black ink that reads "Reid B. Blackwelder MD". The signature is written in a cursive style with a large, stylized "D" at the end.

Reid B. Blackwelder, MD, FAAFP
Board Chair