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March 2, 2015

The Honorable Robert A. McDonald  
Secretary  
Department of Veterans Affairs  
810 Vermont Avenue, NW, Room 1068  
Washington, DC 20420

***RE: RIN 2900-AP24, Expanded Access to Non-VA Care through the Veterans Choice Program***

Dear Secretary McDonald:

On behalf of our nearly 5,000 member hospitals, health systems and other health care organizations, and our 43,000 individual members, the American Hospital Association (AHA) appreciates the opportunity to comment on the Department of Veterans Affairs' (VA) interim final rule on expanded access to non-VA care through the Veterans Choice Program. The Veterans Choice Program is a new, temporary benefit allowing some veterans to receive health care from non-VA health care providers rather than waiting for a VA appointment or traveling to a VA facility. It was authorized under the Veterans Access, Choice, and Accountability Act of 2014 and provides \$10 billion for non-VA medical care to eligible veterans until the required end date of Aug. 7, 2017. The temporary program will end early if the allocated funds of \$10 billion are used prior to that date.

America's hospitals strive to ensure patients get the right care at the right time, in the right setting. As such, they have a long-standing history of collaboration with the VA and are eager to assist them, and our veterans, in any way they can, including by providing care through the Veterans Choice Program. While we understand that the VA had an extraordinarily short timeframe in which to implement the program, we have serious concerns about its execution. Our members, as well as veterans, have faced many roadblocks when attempting to provide and access care under the program. These roadblocks have resulted in a very small number of veterans being able to access the program – only about 27,000 of the 9 million veterans who depend on the VA for health care. **With our shared goal of ensuring that America's veterans receive the care they need at the time they need it in mind, below we offer suggestions for improving the Veterans Choice Program with respect to the mileage requirement, timely payment of claims, and contracting to provide care. If implemented, we believe these changes will both increase veterans' access to care and encourage broader participation by non-VA providers.**



## **MILEAGE REQUIREMENT**

In order to participate in the Veterans Choice Program, a veteran must satisfy two separate eligibility requirements and must also provide (and update) health care plan coverage and residence information. Under the first eligibility requirement, the veteran must have been enrolled in the VA health care system on or before Aug. 1, 2014, or must be within five years of post-combat separation. Under the second eligibility requirement, the veteran must qualify under at least one of several criteria that include the veteran's place of residence being more than 40 miles from the closest VA medical facility. The rule defines a VA medical facility as a VA hospital, VA community-based outpatient clinic (CBOC) or a VA health care center, regardless of whether the facility can provide the specific care that the veteran requires. The VA stated that it believes the statutory language authorizing the Veterans Choice Program precludes it from considering the type of care provided at a VA medical facility under the 40-mile criterion. In addition, the 40-mile standard is calculated using straight-line distance (versus driving distance) since the conference report accompanying the law indicates that VA should use the shortest distance between two points for this calculation.

**We are concerned that the VA's interpretation of the 40-mile criterion unreasonably restricts many veterans' ability to access health care.** For example, one of our member hospitals in rural Arizona is one mile away from a CBOC that provides only primary care. Their proximity to this VA facility precludes most veterans in their service area from qualifying for the Veterans Choice Program under the mileage criterion. As a result, these veterans must travel 200 miles – or 400 miles round trip – to the nearest urban center to receive any type of care other than primary care. This circumstance is completely contradictory to the conference report accompanying the law that states that “[t]he Conferees do not intend the 40-mile eligibility criteria included in this section to preclude veterans who reside closer than 40-miles from a VA facility from accessing care through non-VA providers, particularly if the VA facility the veteran resides near provides limited services.” Further, using straight-line distance to measure the 40 miles is not realistic or practical. In many areas, the straight-line distance between a veteran's place of residence and the nearest VA facility is not at all indicative of the actual driving distance or time required to travel between these two places.

In addition to the 40-mile criterion, the law allows for veterans to qualify for the Choice Program if their place of residence is 40 miles or less from a VA medical facility, but they face an unusual or excessive burden in traveling to a VA medical facility because of geographical challenges. The VA has interpreted “geographical challenges” to mean that travel is impeded by a body of water or a geologic formation that cannot be crossed by road. **However, we urge the department to interpret this standard much more broadly to account for the extenuating circumstances some veterans face in accessing the health care they need. Doing so would allow more veterans to access the program.**

## **PROMPT PAY**

As required by law, the VA must establish a nationwide claims processing system to receive requests for payment and to provide accurate and timely payments for claims received under the Veterans Choice Program. However, the rule does not set forth timeframes within which the VA must review claims and make payment. **Our members have repeatedly expressed frustration with their inability to obtain timely payment from the VA and its contractors, both in the past and currently, which hinders access to care for veterans who need non-VA services.** In fact, in March 2014, the Government Accountability Office (GAO) reported that one non-VA hospital often either received no response after claims were sent to the VA or experienced lengthy delays, in some cases of years, in the processing of their claims. The hospital had approached the VA to try to discuss ways to improve the claims process, but those efforts were unsuccessful. Additionally, GAO testified at a House Committee on Veterans' Affairs hearing on June 18, 2014, on claim-processing discrepancies that delayed or denied payments for health care provided by non-VA providers. According to GAO, these delays or denials create an environment where non-VA entities are hesitant to provide care due to fears they will not be paid for services provided.

**We urge the VA and its contractors to commit to paying non-VA hospitals in a timely manner, for Veterans Choice Program services, as well as other services provided to veterans.** Specifically, we ask the department to:

- Review claims as soon as practicable after receipt to determine whether they are proper. When a claim is determined to be improper, the department should return the claim to the hospital as soon as practicable, but no later than seven days after its initial receipt. The VA also should specify the reasons why the claim is improper and request a corrected claim.
- Pay claims within 30 days of the receipt of a proper claim.
- Make interest payments to hospitals when claims are not paid according to the 30-day standard.

## **CONTRACTING TO PROVIDE CARE UNDER THE VETERANS CHOICE PROGRAM**

Under the rule, the VA does not allow direct contracting opportunities for hospitals or physicians to provide care through the Veterans Choice Program. Instead, it requires all non-VA medical care provided under the program to be implemented through contracts with either Health Net Federal or TriWest Healthcare Alliance. We understand that the VA chose to utilize these existing contracts because of the time constraints it faced in implementing the program. However, the law allows hospitals to contract directly with their local VA facilities rather than going through a managed care contractor. Many hospitals already have ongoing and cooperative relationships with their local VA facilities that can be built upon to enable our veterans to readily secure needed care. Allowing hospitals to contract directly with the VA allows them to meet the needs of their local veteran community and provides the quickest route for veterans to be seen by a primary care provider. **Therefore, as implementation of the Veterans Choice Program**

The Honorable Robert A. McDonald  
March 2, 2015  
Page 4 of 4

**continues, we urge the VA to consider allowing hospitals to contract directly with their local VA facilities.**

**This lack of a direct contracting opportunity is particularly frustrating to hospitals given that they have encountered difficulties communicating with Health Net and TriWest.** Specifically, in contracting with hospitals to provide non-VA care under the Veterans Choice Program, Health Net and TriWest are responsible for preauthorizing this care, processing and paying claims, collecting medical records from the hospital and transmitting them to the VA, coordinating care, and serving as a resource for providers and veterans. Yet, hospitals have experienced difficulties getting in touch with these entities, receiving answers to their questions about the program, and interpreting communications, particularly pre-authorizations. For example, all Veterans Choice Program care must be pre-authorized by Health Net or TriWest. Many of our hospitals already contract with these entities for the Patient-Centered Community Care program and also receive pre-authorizations from Health Net and TriWest for veterans they serve under that program. Often, the pre-authorizations do not identify which program the veteran qualifies for, which has implications for the entity the hospital bills for the care and the time period/services that the pre-authorization covers. This causes significant confusion, which can delay both the provision of and payment for care. **We urge the VA to work with Health Net and TriWest to improve their communication with hospitals.**

We appreciate your consideration of these issues and look forward to continuing to work with the VA to provide high-quality health care to our nation's veterans. If you have any questions, please feel free to contact me or Joanna Hiatt Kim, vice president of payment policy, at (202) 626-2340 or [jkim@aha.org](mailto:jkim@aha.org).

Sincerely,

/s/

Rick Pollack  
Executive Vice President