



AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO

Eugene Hudson, Jr.
National Secretary-Treasurer

J. David Cox, Sr.
National President

Augusta Y. Thomas
NVP for Women & Fair Practices

375298

January 8, 2018

Honorable Phil Roe
Chairman
House Committee on Veterans' Affairs
335 Cannon House Office Building
Washington, DC 20515

Honorable Tim Walz
Ranking Member
House Committee on Veterans' Affairs
335 Cannon House Office Building
Washington, DC 20515

Honorable Jack Bergman
Chairman
Subcommittee on Oversight & Investigations
414 Cannon House Office Building
Washington, DC 20515

Honorable Ann McLane Kuster
Ranking Member
Subcommittee on Oversight & Investigations
414 Cannon House Office Building
Washington, DC 20515

Dear Chairman Roe, Ranking Member Walz, Chairman Bergman, and Ranking Member Kuster:

I am writing today on behalf of the American Federation of Government Employees, AFL-CIO (AFGE), which represents 700,000 federal employees including 250,000 employees of the Department of Veterans Affairs (VA) regarding troubling findings by the VA Office of Inspector General (VA OIG) that two health care contractors collected nearly \$90 million in improper payments from the VA.¹ The questionable practices used by third party administrators (TPA) of the VA Choice Program, TriWest, and HealthNet, including double billing and improper payment rates, have directly harmed veterans and undermined the capacity of the VA health care system to provide them with the exemplary care that they have earned with their service. Therefore, AFGE respectfully requests that the House Veterans' Affairs Committee and the Subcommittee on Oversight and Investigations conduct oversight hearings into the contractors' billing practices and the VA's ability to provide effective oversight of these contracts.

In the referenced September 12, 2017 memo from the VA OIG titled "Accuracy and Timeliness of Payments Made Under the Choice Program Authorized by the Veterans Access, Choice, and Accountability Act," the OIG describes in detail the egregious overcharges these companies have tried to get away with. It is imperative that the most rigorous standards of oversight and accountability be applied to these contracts. It is clear that some Choice contractors will attempt to overcharge taxpayers and the Department of Veterans' Affairs unless and until they know that their efforts will be thwarted by the applications of rigorous audits.

In the OIG's sampling of data since the inception of the Choice Program (a period between November 1, 2014 to September 30, 2016), the VA OIG identified the following errors:

¹ U.S. Veterans Admin. OIG, "Accuracy and Timeliness of Payments Made Under the Choice Program Authorized by the Veterans Access, Choice, and Accountability Act" September 12, 2017.

- Duplicate Errors—Payments for medical claims that have been paid more than once;
- Other Health Insurance (OHI) Errors—Payments that were not adjusted for the amount OHI was responsible to pay the provider;
- Pass-Through Errors—Payments to reimburse the TPA that were more than the TPA paid the provider; and
- Rate Errors—Payments that did not use the appropriate Medicare or contract adjusted rate.

The IG also found that “[a]udit staff has attributed these errors to the lack of an appropriate payment process for Choice claims and an ineffective internal control system for that payment process.” Moreover, in an attempt to speed up payments to the contractors instead of prioritizing accurate accounting practices and exercising caution with taxpayer money, the VA agreed to “modifications to the TPA contracts that allowed payments on Choice claims to occur without undergoing the adjudication and payment process through [Fee Basis Claims System]; instead, the claims were paid with minimal review and on an aggregated basis.” In turn, “OIG Audit staff, recognizing that the Bulk Payment process significantly increased the opportunity for payment errors—since the claims would now be paid on an aggregated basis without any pre-payment adjudication by [the Office of Community Care]—began an audit of these bulk payments in March 2017.” This allowed the OIG to determine that while the VA “undertook some prepayment review in an effort to identify potential duplicate claims, the review was ineffective. VA undertook no other review or adjudication of hundreds of thousands of medical claims prior to payment to the TPAs. Our audit work to date demonstrates the existence of tens of thousands of duplicate payments.” However, what is even more concerning about the VA’s oversight practices is that this was foreseeable.

When evaluating whether these aggregate “bulk payments” and the work that could have been done to prevent them, the OIG states that its “audit work to date indicates that these efforts were ineffective at best.” Furthermore, beyond the VA and TPAs knowing the “likelihood of increased payment errors in this environment,” the VA agreed to modifications to the contract that “impos[ed] responsibility on VA to both take steps to ensure that duplicate payments do not occur and to “complete a post-payment audit of all expedited payments to determine if claims were invoiced and paid correctly and no duplicate payments occurred.”

While the IG’s memo is written in bureaucratic prose, what it firmly establishes is that in a rush to ensure that Choice program contractors receive favorable treatment and fast reimbursement, the VA has overpaid both TriWest and HealthNet almost \$100 million. This amounts to a 5% overpayment error rate just for the contractors’ obvious bookkeeping mistakes. Not included within the scope of the IG’s examination and memo are potentially more substantive and larger overcharging issues relating to the services being provided to veterans. Clearly, the payment error rate, not to mention the potential waste associated with Choice program, is far too high, and we respectfully request that the respective Veterans’ Affairs Committees open an inquiry into the Choice program contracting practices of both VA and its healthcare contractors, and the need for a more robust system of audit and oversight. Choice must not become another government pathway for enriching contractors at the expense of veterans.

Despite the overwhelming evidence of abusive practices by both contractors that were examined, the VA gave them contract extensions through September 30, 2018, explaining that

the federal agency “has no other immediate options available to perform the functions of current contracts.”

Before TriWest and Healthnet are awarded any additional contracts or receive more government funds, AFGE strongly urges lawmakers to conduct oversight into these contracts to protect veterans and taxpayers from these improper and wasteful practices.

Sincerely,

A handwritten signature in black ink that reads "J. David Cox, Sr." The signature is written in a cursive style with a large, sweeping initial "J".

J. David Cox, Sr.
National President



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January 8, 2018

The Honorable Johnny Isakson
Chairman
Committee on Veterans' Affairs
412 Russell Senate Building
Washington, DC 20510

The Honorable Jon Tester
Ranking Member
Committee on Veterans' Affairs
412 Russell Senate Building
Washington, DC 20510

Dear Chairman Isakson and Ranking Member Tester:

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