



U.S. OFFICE OF SPECIAL COUNSEL

1730 M Street, N.W., Suite 300
Washington, D.C. 20036-4505

The Special Counsel

December 12, 2019

The President
The White House
Washington, DC 20510

Subject: OSC File No. DI-17-3205

Dear Mr. President:

In accordance with law, the U.S. Office of Special Counsel (OSC) is submitting to you a report of a Department of Veterans Affairs (VA) investigation of whistleblower allegations.¹ The whistleblower, ██████████, who consented to the release of ██████████ name, disclosed to OSC that the Veterans Integrated Service Network (VISN) 6² failed to reimburse health care providers resulting in veterans losing care and being sent to collection agencies.³ The whistleblower also alleged the Veterans Transportation Program (VTP) failed to properly measure and report to Congress improper payments as required by the Improper Payments Elimination and Recovery Act of 2010 (IPERA).

The investigation, conducted by the VA's Office of the Medical Inspector (OMI), partially substantiated the whistleblower's allegations. The report substantiated the whistleblower's allegation that VISN 6 had "failed to timely reimburse community health care providers, which resulted in some of those providers terminating services for [v]eterans and referring [v]eterans to collection agencies for nonpayment." According to OMI, in 2017 alone, over 2,500 veterans contacted the VA about credit and collection issues resulting from the VA's failure to pay claims.

The report also concluded that, absent reforms, the VA's Beneficiary Travel (BT) Program, which houses the VTP, will continue to make improper payments that constitute a gross waste of funds. According to OMI, the VA's Fiscal Year 2017 Annual Financial Report included \$223.76 million in improper BT Program payments. OMI also found that, despite recommendations for improvements by the VA's Office of Inspector General, the VA's financial software program for calculating and reporting improper payments still did not meet government compliance standards and was vulnerable to errors. The report did not substantiate the whistleblower's remaining allegations: that VA leadership failed to take appropriate action to address these issues when the whistleblower put it on notice in approximately January 2014 and November 2016⁴ and

¹ See 5 U.S.C. § 1213(c) and (e).

² VISN 6 covers the mid-Atlantic state region.

³ Reimbursement is required by the Veterans' Access to Care through Choice, Accountability, and Transparency Act of 2014, and by the Prompt Payment Rule.

⁴ The whistleblower's disclosures as to the BT Program were limited to the VTP.

The President
December 12, 2019
Page 2 of 3

that the VTP does not require audits of medical centers' BT payments, instead auditing only the sites that volunteer to participate, resulting in grossly inaccurate reports of improper payments to Congress.

In response to these findings, OMI made multiple recommendations to the Veterans Health Administration (VHA) and is tracking the VHA's progress quarterly. As to VISN 6's failure to reimburse health care providers resulting in veterans being sent to collection agencies, OMI recommended the following actions to be carried out by VHA: automate the claims submission and payment process; immediately conduct a nationwide campaign to educate providers on how to submit claims to the VA; immediately develop a strategy to resolve unpaid claims and clear the unpaid claims backlog; re-evaluate and adjust the existing claims payment process, including using an "immediate feedback loop" to notify providers if they submit an improper claim; and ensure payment centers have adequate staff to process claims. To date, VHA reports it has implemented an Electronic Claims Adjudication Management System in five VISNs and expects full deployment by the end of December 2019. It has launched a campaign to educate community providers on submitting claims and expects to hire additional support staff by March 2020. The VA also established a Community Care Contact Center in 2015 to assist veterans with credit and collections issues resulting from the VA's failure to pay claims.

As to BT Program overpayments, which OMI concluded constituted a gross waste of funds, OMI recommended that VHA address outstanding OIG recommendations for improving the program's current financial management system—which dates to 1992—and, if improvements are not possible, seek a replacement. OIG has found the BT Program noncompliant with IPERA every year since 2012, when reporting began. To date, VHA reports it has developed action plans for each of its BT Program offices to reduce improper payments to the ten percent compliance threshold by Fiscal Year 2022.

The whistleblower declined to comment on the VA's report.

I commend the whistleblower for coming forward to identify this gross waste of federal taxpayer dollars and the unwarranted hardships placed on veterans as a result of the VA's longstanding failure to properly pay provider claims. I am concerned that the VA has known since 2014 about veterans being sent to collection agencies because of the VA's antiquated repayment system. I am also disappointed that it has taken multiple reports and hundreds of millions of dollars in wasted taxpayer funds for the VA to address the flaws in its accounting software. Nevertheless, I have determined that the VA's report contains the information required by statute and that its findings appear reasonable. I am encouraged by the VA's response to this report and that the agency is now taking steps to ensure these problems are addressed.

The Special Counsel

The President
December 12, 2019
Page 3 of 3

As required by 5 U.S.C. § 1213(e)(3), OSC has sent copies of the agency report, this letter, and the whistleblowers' comments to the Chairmen and Ranking Members of the Senate and House Committees on Veterans' Affairs. OSC has also filed redacted copies of these documents and a copy of our original referral letter in our public file, which is available at www.osc.gov. This matter is now closed.

Respectfully,

A handwritten signature in black ink, appearing to read 'H. Kerner', written over a light blue horizontal line.

Henry J. Kerner
Special Counsel

Enclosures