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The Special Counsel

August 19, 2020

The President
The White House
Washington, D.C. 20500

Re: OSC File No. DI-19-2715

Dear Mr. President:

I am forwarding to you a report transmitted to the Office of Special Counsel (OSC) by the U.S. Department of Veterans Affairs (VA) in response to disclosures received from an employee at the Texas Valley Coastal Bend Health Care System (VCB HCS), Harlingen, Texas. The whistleblower, Former VA Supervisory Mobility Manager Specialist [REDACTED], who consented to the release of his name, alleged that the VA failed to pay private ambulatory companies and municipalities that transported veterans to VCB HCS and failed to reimburse veterans who paid for the transport themselves. I have reviewed the agency report and in accordance with 5 U.S.C. § 1213(e), provide the following summary of the agency investigation, the whistleblower comments, and my findings.¹

[REDACTED] alleged that the VA failed to pay for the cost of emergency medical transportation for veterans brought to a VA facility as required under 38 U.S.C. § 1725 and 38 C.F.R. §§ 17.120, 17.1000-17.1008, by neither paying private ambulatory providers and municipalities for these services nor reimbursing veterans who were forced to pay out-of-pocket. Further, [REDACTED] alleged VCB HCS lacked a processing system to receive invoices and disburse payments for emergency transportation and refused to implement such a system to the financial detriment of veterans and vendors who provide services to the VA.

The agency substantiated that VCB HCS failed to reimburse private ambulance providers and municipalities for the cost of special mode transportation (SMT) and did not reimburse veterans in cases where vendors billed veterans directly due to delays in VA processing the vendors' claims. As a point of clarification, the agency noted that the provision requiring VCB HCS to make these payments falls under 38 U.S.C. § 111 and 38 C.F.R. §§ 70.1-70.50 (also known as the Beneficiary Travel Program), not 38 U.S.C. § 1725 and 38 C.F.R. §§ 17.120, 17.1000-17.1008 as [REDACTED] had alleged. The agency found that the failure to make the payments could be attributed to confusion around the entity responsible for such payments. In 2017, VCB HCS assigned its Office of Community Care the responsibility of responding to the invoices as part of a pilot program, however the

[REDACTED] allegations were referred to VA Secretary Robert L. Wilkie pursuant to 5 U.S.C. §1213(c) and (d). The VA Office of the Medical Inspector (OMI) conducted the investigation. Secretary Wilkie reviewed and signed the agency's report.

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program ended shortly thereafter without VCB HCS reassigning the responsibility to another unit within the system. As a result, no unit in VCB HCS was officially responsible for responding to vendors and invoices were left unpaid. In April 2019, VCB HCS instructed vendors and staff that the Financial Service Center would receive and pay invoices going forward. In response to these findings, the report recommended that all SMT claims from the date following the conclusion of the pilot program be reviewed and processed in a timely manner and that VCB HCS contact SMT vendors to verify that any veterans who paid vendor bills for SMT be reimbursed upon payment from the VA to the vendors. The agency did not substantiate the allegation that VCB HCS lacked a processing system to receive invoices and disburse payments for emergency transportation.

In his May 2020 comments, [REDACTED] noted that numerous invoices from SMT vendors were still unpaid by VCB HCS. [REDACTED] expressed concern that despite the recommendations in the report to review and process all SMT reports, the agency had not done so. [REDACTED] also noted that he felt the agency overlooked the potential risk to veterans' health caused by the issues addressed in the report. He expressed concern the report did not address the potential psychological impact of financial distress on the affected veterans.

In July 2020, the VA provided an update on the report's recommendations. The update confirmed that all invoices had now been paid and new invoices were being processed and paid in fewer than 14 days. Further, VCB HCS implemented training on SMT processing and payment procedures and all Beneficiary Travel staff members had completed the training as of February 2020.

I have reviewed the original disclosure, the agency report, and the whistleblower comments. I thank [REDACTED] for bringing this matter to the attention of OSC and ensuring that veterans are properly reimbursed for these transportation costs. While I recognize the whistleblower's concern, based on the information provided by the agency and the steps taken to implement the recommendations to address the findings, I have determined that the report meets the statutory requirements and the findings appear reasonable.

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

Respectfully,



Henry J. Kerner
Special Counsel

Enclosures