



## Commemorating 40 Years Of Disability Advocacy 1973-2013

March 15, 2013

Robert C. McFetridge  
Director, Regulations Management (02REG)  
US Department of Veterans Affairs  
810 Vermont Ave, NW; Room 1068  
Washington, DC 20420

RE: RIN 2900-AO15

Dear Mr. McFetridge:

On behalf of the Consortium for Citizens with Disabilities (CCD) Veterans and Military Families Task Force and the Long-Term Services and Supports Task Force, we submit the following comments on the proposed rule issued on February 13, 2013, which would allow the Department of Veterans Affairs (VA) to use Medicare or State procedures (Medicaid) to enter into provider agreements to obtain extended care services from non-VA providers. CCD is a coalition of over 100 national disability rights, advocacy, consumer and provider organizations advocating on behalf of the nation's 56 million people with disabilities.

The VA has made significant advancements in efforts to ensure that disabled veterans have access to the long-term services and supports needed to allow them to be vital contributors to their communities. For example, the Veteran-Directed Home and Community Based Services (VD-HCBS) program provides veterans with the autonomy they need to manage the goods and services that will allow them to remain independent. We fully endorse increasing access to this and other programs that empower disabled veterans with the ability to receive community based services. To do this, the VD-HCBS program must be able to continue to contract with a wide variety of high-quality providers of services for people with disabilities. We trust that the intent of the proposed rule is not to limit those providers or services.

We appreciate the interest of VA in expanding access to non-VA community based service providers by making it easier for Medicare or Medicaid providers to connect with VA. Facilitating those connections will likely help to expand the ability of veterans to receive need community based services, including those that may be nearer to their homes. These providers have a wealth of experience in assisting people with disabilities, particularly those providers who provide Medicaid Home and Community Based Services. We hope that this option will be viewed, however, as an additional tool that can be used to ensure that veterans receive the services that they need to remain in the community. It should not supplant the current contracting abilities of VA in seeking to provide VD-HCBS and other community based services. Nor should there be a bias against non-Medicare or Medicaid providers in general.

We also suggest that VA reconsider the decision to strictly limit the types of services that are included in the definition of extended care services. Proposed section 17.75(a) defines extended care services as including "geriatric evaluation; nursing home care; domiciliary services; adult day health care; noninstitutional palliative care, noninstitutional hospice care, and home health care when they are noninstitutional alternatives to nursing home care; and respite care." We believe that this definition may needlessly restrict the range of services for which veterans are eligible.

Under 38 United States Code 1710B(a)(5), the Secretary has the authority to provide “[s]uch other noninstitutional alternatives to nursing home care as the Secretary may furnish as medical services under section 1701(10) of this title.” In the proposed regulation, VA asserts that the proper definition of medical services is under section 1701(6)(E), which states that medical services include “[n]oninstitutional extended care services, including alternatives to institutional extended care that the Secretary may furnish directly, by contract, or through provision of case management by another provider or payer.” We believe that based on the outlined authority the proposed definition of extended care services and who may provide those services is too narrowly stated in the proposed rule.

Aligning the services that providers may provide too closely with a medical model of service may limit the ability of veterans to receive services that are needed to help them live in their communities. These services include, but are not limited to, chore maintenance; environmental services; health maintenance; homemaker services; personal care services; nutrition services; and transportation. We strongly believe that this regulation must provide the flexibility where needed for veterans to receive these types of services, which are currently available, for example, through the VD-HCBS program, if they are not otherwise being provided to prevent institutionalizations.

Thus, while we appreciate efforts to expand access to providers through Medicare and Medicaid provider agreements, we believe that VA should not be limited in the types of providers and extended care services for which veterans are already eligible or may need to be eligible for in the future. Providing easier access to Medicare and Medicaid providers must simply be an avenue of expansion, not exclusion. Otherwise, the number of providers available and the types of services available may actually be decreased.

We appreciate the opportunity to comment. If you have any questions, please contact Heather Ansley, Co-Chair CCD Veterans and Military Families Task Force, at (202) 556-2076, Ext. 7702 or by e-mail at [hansley@vetsfirst.org](mailto:hansley@vetsfirst.org).

Sincerely,

Heather Ansley, Co-Chair  
VetsFirst, a program of United Spinal Association

Lee Page, Co-Chair  
Paralyzed Veterans of America

Susan Prokop, Co-Chair  
Paralyzed Veterans of America

Maureen Fitzgerald, Co-Chair  
The Arc of the US

Maynard Friesz, Co-Chair  
Easter Seals

Laura Weidner, Co-Chair  
National MS Society

Dan Berland, Co-Chair  
National Association of State Directors of Developmental Disabilities Services