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October 29, 2020

The Honorable Robert Wilkie
Secretary of Veterans Affairs
810 Vermont Ave NW
Washington, DC 20420

Dear Secretary Wilkie,

It has now been seven months since President Trump signed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) into law and I am concerned that the Department of Veterans Affairs (VA) has yet to fully implement Section 20009, which required VA to provide personal protective equipment (PPE) to home health workers serving veterans. Access to life-saving PPE remains a paramount concern as the COVID-19 pandemic stretches on. Veterans requiring home care should be able to count on the Department to keep them, and the providers who care for them, safe.

I first wrote to you on April 10, 2020 to request that VA quickly and efficiently implement provisions from the CARES Act to protect veterans during the pandemic. Specifically, Section 20009 of the CARES Act directed VA to provide PPE to all home health workers serving veterans – including both VA employees and contracted staff. PPE is essential for home health workers to avoid unknowingly spreading the COVID-19 virus to veterans, many of whom are elderly or disabled. VA should be taking all precautions necessary to protect the health and lives of veterans and the home health workers who selflessly care for them.

When my staff requested an update on the implementation of Section 20009, the provision of PPE to home health workers, VA responded in late May 2020 saying the request was “in the final stage of clearance with OMB [Office of Management and Budget, Executive Office of the President].” After months of waiting on an implementation update on Section 20009, VA finally reported back on September 30, 2020 that “VHA does not provide PPE directly to home health providers; VHA provides necessary PPE directly to Veterans.” This is unsatisfactory, as VA’s current implementation goes against the letter of the law and does not meet the intent from the CARES Act of providing PPE directly to home health workers who care for veterans.

When I fought to include this provision in law, it was so that home health workers could have the necessary PPE before they even stepped foot into a veteran’s home – not for them to be forced to show up empty-handed and have to rely on the veteran patient to supply them with essential PPE. VA should not be gambling with veterans’ and providers’ health by denying home health workers the PPE they need to safely do their jobs. Further, if the Department ran into issues implementing the law as intended, VA officials should have come directly to me and the other leaders of the Senate and House Veterans’ Affairs Committees. As I stated in my April

2020 letter, “As always, I stand ready to assist VA in providing needed authorities during this pandemic.”

Seven months after enactment, it is unacceptable that VA is not complying with the CARES Act and leaving homebound veterans and their providers at-risk during a major pandemic. What is VA’s plan to comply with the CARES Act and provide both employees and contractors with appropriate PPE so they can care for veterans safely? I request your response within 30 days of receipt of this letter.

With VA now reporting more than 5,000 active COVID-19 cases among veterans, the highest since this summer’s peak, this pandemic is not going away anytime soon. Home health workers are risking their lives to take care of our nation’s veterans. If VA is truly committed to protecting veterans during this crisis, the Department needs to ensure that all of its providers and contractors are equipped with the essential PPE to do their jobs safely. I look forward to your timely response and the Department’s full implementation of the CARES Act.

Sincerely,

A handwritten signature in blue ink that reads "Jon Tester". The signature is stylized with a long horizontal line extending to the right.

Jon Tester
United States Senator