

# United States Senate

WASHINGTON, DC 20510

September 19, 2022

The Honorable Denis R. McDonough  
Secretary of Veterans Affairs  
810 Vermont Ave NW  
Washington, DC 20420

Dear Secretary McDonough,

We write today to express concerns with the Department of Veterans Affairs' (VA) proposed rule change for rates paid for air ambulance services (AP89). We find this proposed rule change to be premature, as VA currently lacks a substantive analysis on the costs of providing air ambulance services to Veterans Health Administration (VHA) beneficiaries.

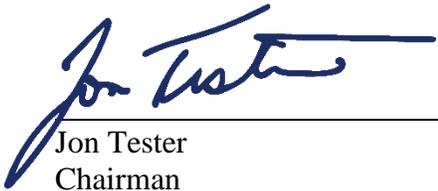
We recognize VA is working towards improving operations and simplifying finances, yet this rule change proposal would likely contribute to less accessibility to quality emergency care for our nation's veterans, especially in rural areas. The proposal would have VA pay the lesser of either the Medicare Part B Ambulance Fee Schedule (AFS) or the actual charge of the transportation service(s). As it stands, the AFS payment rate is minimal in comparison to the operational costs of the air ambulance bases, and implementing this rule will only exacerbate the financial strain that is placed on these transportation providers, causing many of the smaller service sites to close. Further, the AFS rates are based on cost data from 1998, and have only been adjusted to accommodate the annual ambulance inflation factor, not including more critical cost components like provider services and operational costs.

The demand for air ambulances in rural areas is especially high given the limited specialized services available across great distances and sometimes hazardous roads. The number of Medicare, Medicaid, and uninsured patients in rural areas is also substantial. Covering the cost difference – between the reimbursement rate and actual cost – for these patients is significant. A large percentage of veterans eligible for VA health care also live in rural areas. The effect of having an additional payer, VA, whose reimbursement rate is woefully below cost will result in closure of these sites, because the providers will no longer be able to cover operational costs. Other types of providers in cases where reimbursement rates have dipped below operational costs have the option of which patients to admit, but that is not an option for air ambulance providers given the nature of the essential, urgent services they offer. And it is not in anyone's interest for these providers to change that and insist eligibility requirements be met in order to transport a patient. In 2019, fifty-seven air ambulance bases were forced to close, primarily in rural areas and largely due to payment gaps. Not only do these base closures impact Medicare and Medicaid beneficiaries, but they also significantly impact VHA beneficiaries.

The No Surprises Act of 2020, passed as part of Public Law 116-260, the Consolidated Appropriations Act of 2021, requires the Secretary of Health and Human Services, in consultation with the Secretary of Transportation, to determine appropriate cost data relating to air ambulance services. VA should wait until this determination has been completed in order to ensure the correct rate is established, rather than risk closure of rural bases that may have the inability to re-open even if the cost is properly adjusted at a later date. As such, and in line with this legislation, we are requesting VA delay implementation of AP89 in order to allow for appropriate data collection, analysis of findings, and final recommendations from the Secretary of Health and Human Services and the Secretary of Transportation.

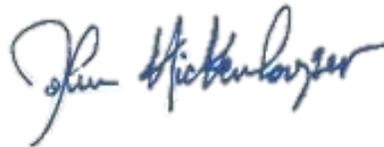
We look forward to hearing from you about your plans to appropriately and efficiently address these concerns. We must ensure this critical care service remains intact and our veterans receive the care they need and have earned.

Sincerely,



---

Jon Tester  
Chairman  
Senate Committee on Veterans' Affairs



---

John Hickenlooper  
United States Senator



---

Mazie K. Hirono  
United States Senator



---

Brian Schatz  
United States Senator