

DELAYED AND DENIED CARE

Transparency and Oversight Needed for VA Wait Times



Our View

Veterans deserve access to quality health care in a timely manner. Reports of delayed, denied, and cancelled health care appointments at the Department of Veterans Affairs are unacceptable and require robust oversight by Congress. The VA is required to follow the policies, procedures, and training from VA MISSION Act law and regulations. Selectively picking and choosing what regulations or sections of the law to follow, resulting in 20 million cancelled appointments, is unacceptable.

Background

The VA MISSION Act created the Veterans Community Care Program, which was rolled out in 2019 to give greater health care choice to veterans. A key component of the new program is new access standards and eligibility criteria for community care. While access to care was disrupted across every single health care system in 2020 due to a global pandemic, this does not excuse the VA from following and fully implementing the law and regulations.

In September 2020, the [Inspector General reported](#) nearly 20 million VA appointments cancelled or delayed during the pandemic, denying millions of veterans' access to critical care. Moreover, [evidence suggests](#) a potential trend of the VA using improper wait time calculations to limit access to community care under the VA MISSION Act access standards. Documents obtained through a [Freedom of Information Act lawsuit](#) filed by Americans for Prosperity Foundation on July 20, 2021 confirm and expand upon concerns outlined by the Government Accountability Office.

The VA announced in October 2021 they were [decommissioning](#) and closing the Office of Community Care as well as shutting down the VA MISSION Act website (missionact.va.gov). This move by the VA comes as many veterans are still learning about their health care options and will only make it harder for veterans to access information regarding their options and eligibility.

Americans for Prosperity Foundation released all documents obtained via FOIA on [October 1, 2021](#) and [January 28, 2022](#). Below are key findings from reports from the OIG, GAO, news reports, and the FOIA documents.

Key Findings And Oversight Opportunities

- Failing to follow VA MISSION Act eligibility requirements and denying community care.** The VA continues to use [old scheduling guidance](#) from legacy community care programs instead of following the VA MISSION Act and its [regulatory guidance](#). The VA's Referral Coordination Initiative Implementation Guidebook (updated Oct. 28, 2021) details the VA's push to [reduce community care](#) because "more veterans being referred to the community than expected." These training materials obtained via a FOIA request reveal the VA has created a web of steps to make it easier for the VA to deny community care and harder for veterans to receive timely care. This includes:
 - Denying Community Care referrals based on clinical appropriateness requirement.** [Flowcharts](#) used in VA training documents reveal an added layer after a veteran has been determined eligible for community care. The VA has created a new "clinically appropriate" standard that must be met before completing referrals. This additional step is not allowed by the VA MISSION Act and can leave veterans waiting even longer for care, or simply being denied community care despite being found eligible.
 - Waiving wait time access standards.** According to VA training guidance, "for veterans with a return to clinic order with a CID (clinically indicated date) greater than 20/28 days, the wait time standard is considered waived." This guidance creates a carve out exemption to the access standards created by the VA MISSION Act and takes the decision away from the veteran to waive wait time standards. This practice allows the VA to deny community care for eligible veterans without the veteran's consent.
 - Granting administrators, instead of providers and veterans, the final decision-making authority on "Best Medical Interest" eligibility.** Findings in an [newsource/USA Today investigative story](#) from November 1, 2021 revealed VA administrators and schedulers actively countering the clinician referral recommendation to limit veterans access to community care. The VA MISSION Act includes the eligibility criteria of "best medical interest" in the text of the law, however VA administrators are leveraging that eligibility criteria to limit access instead of giving clinicians maximum flexibility to

refer patients to community providers if it is in their best interest. Ultimately clinicians and veterans should be trusted to know when it is in the veterans' best interest to receive non-VA care.

- **Using “Patient Indicated Date” to misrepresent wait times.** The VA is using what is called the “patient indicated date (PID)” instead of the “date of request,” as required by the current access standard regulation, to calculate and report wait times. In practice, the PID is usually set by a scheduler instead of the “date of request,” which is set by the veteran. The [VA’s own guidance](#) on their website admits to using two different methods to measure wait times. The [GAO found](#) that this standard is subject to scheduler interpretation and ripe for manipulation. Ultimately this can leave veterans not just waiting longer, but also denied access to community care referrals.

Example A: Case Study on Finding #1 via FOIA for Arizona

Data obtained from the [Southern Arizona VA](#) (Tucson) , the [Northern Arizona VA](#) (Prescott) , reveals how the VA’s use of two different methods of calculating wait time impacts who might be eligible for community care. Using the PID for existing patients overwhelmingly leads to the appearance of shorter wait times for veterans. Completed appointment data obtained via FOIA from January 2020 through June 2021 found:

Primary Care

- Tucson: Under MISSION Act standards, 21% of appointments would be eligible instead of 4.2%.
- Prescott: Under MISSION Act standards in the pre-COVID month of January 2020, 68% of appointments would be eligible instead of 10.3%.

Specialty Care

- Tucson: Under MISSION Act standards, 26.7% of appointments would be eligible instead of 9.3%.
- Prescott: Under MISSION Act standards in the pre-COVID month of January 2020, 54.4% of appointments would be eligible instead of 14.8%.

Mental Health Care

- Tucson: The wait times for new patients and existing patients for mental health care differs only slightly with a 5 percent difference using PID or date of request to calculate wait time.

Example B: Case Study on Finding #1 via Public VA Wait Time Access Data

Data from the [VA website](#) accessed on January 25, 2022 reveals significant differences between how long a veteran waits for care based on whether they are a new patient (Date of Request) or an existing patient (Patient Indicated Date), for the following facilities:

Primary Care in Montana at Hamilton VA Clinic

- New Patient based on Date of Request: 74 days
- Returning Patient based on Patient Indicated Date: 3 days

Primary Care in Kansas at Shawnee VA Clinic

- New Patient based on Date of Request: 43 days
- Returning Patient based on Patient Indicated Date: 2 days

Primary Care in Tennessee at the Nashville VA Medical Center

- New Patient based on Date of Request: 61 days
- Returning Patient based on Patient Indicated Date: 7 days

Primary Care in Illinois at the Mount Vernon VA Clinic

- New Patient based on Date of Request: 26 days
- Returning Patient based on Patient Indicated Date: 1 day

2. **Canceling and rescheduling of appointments without agreement of the veteran or offering community care.** Data obtained from the [North Florida and South Georgia VA](#) (Gainesville) found out of 682,739 canceled appointments made by the VA from January 2020 through May 2021, a total of 427,466 lacked evidence that they were canceled with the permission of the veteran. Canceling or canceling and rescheduling appointments should be done with consultation of the veteran, otherwise this practice can be abused and used to [reset the wait time clock](#) and used as a backdoor method of denying veterans referrals to community care. In [Montana](#), from January 2020 through May 2021 over 93,000 appointments were canceled by the VA, and it is unknown if those patients were ever rescheduled, offered community care or left waiting. Materials received through the FOIA process include training documentation with a patient with a PID of April 20, 2020 that was canceled and moved to August 14, 2020 due to the pandemic. Yet the patient was never offered community care as an option nor does the training scenario indicate the VA was obligated to offer it, even though the patient waited four months for care.

3. **Inadequate documentation of when veterans opt-out of community care.** According to guidance from the [Office of Community Care Field Guidebook](#), the VA is responsible for documenting when a veteran opts out of community care. FOIA data obtained from the [North Florida and Southern Georgia VA](#) (Gainesville) found the VA scheduled 187,385 appointments outside of the wait time access standard but only had 5,975 that contained proper documentation in the record that there was agreement by the veteran to opt out of community care. Either the VA is not to accurately document conversations with veterans or not offering community care to eligible veterans.

4. **Using cost to determine administration of community care program.** Funding for community care as well as VA health care should not determine where or how a veteran accesses health care. However, [internal guidance](#) being used by the VA states, when reviewing community care options, “staff must also consider funding availability.” This type of language should be removed from any VA scheduling guidance to avoid any miscommunication.

5. **Neglecting to advise veterans of their options and actively dissuading use of community care.** [Guidance](#) being used by the VA discourages VA employees from offering to review eligibility for community care for veterans unless they ask for it themselves. Furthermore, the VA is actively providing sample scripts for employees to use when talking to veterans eligible for community care. The [VA’s script](#) actively dissuades veterans from choosing community care by using inaccurate community wait time data and placing the expectation on the veteran to ensure their care is coordinated and to obtain their medical records – both of which are, and have always been, the VA’s responsibility. These are misleading practices because the VA does not have the ability to know the wait times for community providers because those are not reported to the VA.

Read More

- All FOIA documents released by Americans for Prosperity Foundation on October 1, 2021, [“Records confirm VA’s use of inaccurate wait time numbers.”](#)
- All FOIA documents released Americans for Prosperity Foundation on January 28, 2022, [“More evidence the VA is improperly delaying or denying community care to eligible veterans.”](#)

Contacts:

Luis Cardona, Federal Affairs Liaison lcardona@cv4a.org

Juliana Heerschap, Policy Director jheerschap@cv4a.org