

United States Senate

WASHINGTON, DC 20510

September 17, 2015

The Honorable Robert A. McDonald
Secretary of the Department of Veterans Affairs
810 Vermont Avenue, Northwest
Washington, D.C. 20420

Dear Secretary McDonald:

Two recent Department of Veterans Affairs Office of the Inspector General (VAOIG) Reports on the Veterans Benefits Administration (VBA) Fiduciary Program reveal troubling audit results. Findings published in the June 1, 2015 report, *Audit of Fiduciary Program's Management of Field Examinations*, demonstrate that VBA is consistently failing both to meet timeliness standards for field examinations and to comply with all relevant performance measures. The *Audit of Fiduciary Program Controls Addressing Beneficiary Fund Misuse*, published on August 27, 2015, demonstrate that misuse actions associated with beneficiary management were also not performed in a timely manner or according to VBA policy. We urge VBA to swiftly comply with VAOIG recommendations, submit a plan to enhance Fiduciary Program oversight to Congress, and aggressively pursue the recoupment of VA benefits from predatory fiduciaries.

Despite attempts at reform, the timeliness for field examinations has regrettably worsened, which contributes to fiduciary fraud, the wrongful appointment of fiduciaries, and temporary termination of benefit payments. Specifically, the VAOIG *Audit of Fiduciary Program's Management of Field Examinations* determined that VBA did not meet timeliness standards for 42 percent of pending and completed field examinations during Calendar Year (CY) 2013 and data from CY 2013 and CY 2014 represents a 15 percent increase in the number of field examinations exceeding timeliness standards due to inadequate management oversight.

Additionally, the *Audit of Fiduciary Program Controls Address Beneficiary Fund Misuse* demonstrates that VBA did not complete required actions in response to allegations and indications of beneficiary fund misuse to determine whether misuse of funds occurred. From January 1, 2013 to December 31, 2013, VBA did not process 48 percent of required actions associated with 122 beneficiaries in a timely manner or according to policy. Furthermore, the report found that VBA did not timely complete actions after concluding that the misuse of funds did, in fact, occur, such as reissuing misused funds, performing effective collection actions, and completing internal negligence determinations.

Field examinations and fund misuse response are crucial components of VBA oversight of the Fiduciary Program, and it is essential that these actions are conducted in a timely manner. In both VAOIG reports, management attributed lack of timeliness to an increase in Fiduciary Program workload. We request additional information regarding the distribution of employees at

nationwide hubs and an assessment of whether the VA FY 2016 funding request for an additional 85 fiduciary employees will be able to adequately address timeliness concerns.

Though we were pleased to see that VBA implemented formal procedures in November 2013 to create policies for dealing with abusive fiduciaries, we are concerned that the amount of misused VA benefits increased from FY 2012 to FY 2015 and that VBA staff did not effectively perform actions to initiate collection of misused funds due to confusion regarding policy changes as well as limited data and tracking mechanisms. We urge VBA to continue efforts to clarify these policies and ensure that debts are established to recoup all misused funds by abusive fiduciaries.

By failing to fulfill its legally required oversight responsibilities, VBA is placing the health and financial well-being of our most vulnerable veterans – and their hard earned benefits – at intolerable risk. It is unconscionable that VBA has been repeatedly warned of these risks and has yet to effectively implement oversight measures to prevent unscrupulous actors from exploiting veterans. We welcome any suggestions that you may share to strengthen protections for veteran beneficiaries. Thank you for your immediate attention to this urgent matter.

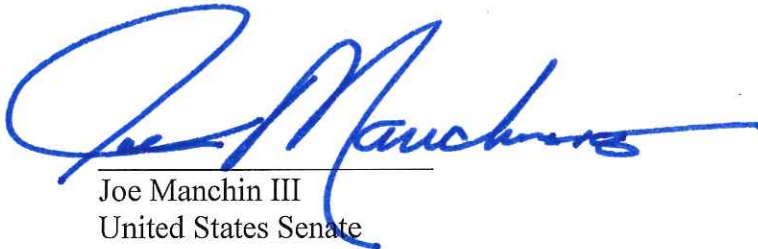
Sincerely,



Richard Blumenthal
United States Senate



Sherrod Brown
United States Senate



Joe Manchin III
United States Senate