



May 4, 2017

The Honorable David Shulkin
Secretary of Veterans Affairs
Department of Veterans Affairs
810 Vermont Ave NW
Washington, DC 20420

Subject: Late Payments for Surgical Implants

Dear Secretary Shulkin,

On behalf of the Coalition for Government Procurement (the Coalition), I am writing to bring to your attention the significant concerns of our members regarding the Department of Veterans Affairs' (VA) prosthetics acquisition, which includes the acquisition of surgical implants such as orthopedic and cardiac devices. Coalition members are reporting that there are millions of dollars worth of outstanding and late payments and that despite efforts by the VA the value of these late payments is increasing.

By way of introduction, the Coalition's Healthcare Committee provides more than \$12 billion worth of pharmaceuticals and medical/surgical products to support healthcare needs of our nation's warfighter and veterans. The Committee is a forum for Government and industry to come together to ensure that our nation's veterans and active duty military receive the highest quality of care. The Coalition is proud to have worked with Government officials for more than 38 years towards the mutual goal of common sense acquisition.

Prosthetics Acquisition

In order to support the VA's mission of providing quality healthcare for our nation's veterans, Coalition members provide, among other products, prosthetics which are crucial to our veterans. Surgical implants that remain in the veteran's body for longer than 30 days are procured through the VA Prosthetics Program, which will include products such as replacement knees and hips, spine implants, and cardiac pacemakers/defibrillators.

Our members report late payments for these categories of prosthetics are increasing at an alarming rate. Specific Coalition member companies, which account for a portion of the total prosthetic spending, have reported over \$15 million in late payments (outstanding by over 30 days following the surgical procedure) – with more than \$4 million in late payments that have been outstanding for more than 90 days. These companies report that the amount of late payments is the highest that they have ever encountered in their many years of working with the VA. It is important to note that these are only the late payments that the Coalition members have reported – we understand many other companies are also struggling with this accounts receivable problem, and the total value of late payments is much higher.

The Coalition and its members are committed to providing the highest quality of care possible for our Veterans. However, significant late payments directly affect the ability of companies to provide their products to patients, discourage company representatives from servicing VA Medical Centers as documented in the recent preliminary VA IG Report on the Washington DC VA, lead to supply shortages, and in severe cases can result in removal of the product by the vendor. However, the problems surrounding late payments can be solved in a way that benefits Government, industry, and our veterans.

Possible Solutions

The Coalition finds this trend of late payments very troubling given the broad power that the VA has for the procurement of prosthetics. In fact, 38 U.S. Code §8123 (“Section 8123”) grants broad power, specifically for the purpose of procuring prosthetics:

The Secretary may procure prosthetic appliances and necessary services required in the fitting, supplying, and training and use of prosthetic appliances by purchase, manufacture, contract, or in such other manner as the Secretary may determine to be proper, *without regard to any other provision of law*. [Emphasis Added]

Section 8123 is a uniquely powerful provision in Federal procurement. For the procurement of most other goods and services, Government and industry are required to follow burdensome, compliance-heavy processes. This provision allows the VA streamline existing rules and processes for the acquisition of prosthetics. A reevaluation of the ordering procedures can lead to streamlined purchasing so that essential prosthetics can reach patients more quickly. The flexibility granted in Section 8123 ensures that the VA has the opportunity to fully embrace commercial best practices. The Coalition recommends that the VA explore options for the further usage of Section 8123 to streamline the prosthetics acquisitions.

Recommendations

1. Codify the broad power granted in 38 U.S. Code §8123 into CFR Title 38 – Pensions, Bonuses and Veterans’ Relief, streamlining the ordering and payment process for prosthetics
2. Issue an instructional letter to VA medical personnel on the importance of prompt payments to sustain a supply chain and provide care for patients. Having the support of the VA Secretary is instrumental in curing this issue.
3. We would also request that you hold a meeting with industry, at a time and place that is convenient for you, so that we can discuss this issue in greater detail

Thank you for considering the Coalition’s member comments concerning late payments in the acquisition of prosthetics. We look forward to hearing your thoughts and actions toward resolving this matter. If there are any questions, please contact me at (202) 331-0975 or rwaldron@thecgp.org.

Sincerely,



Roger Waldron
President



Bill Gormley
Chairman