

# United States Senate

August 22, 2022

**VIA ELECTRONIC DELIVERY**

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

Dear Secretary McDonough:

We are writing to follow up on reports of misdiagnosed traumatic brain injuries (TBI) within the Department of Veterans Affairs. We are concerned about missed or delayed care for TBI treatments for Veterans due to potential misdiagnoses and urge the VA to provide solutions for any Veterans who may have not received equitable relief within the VA's limited window.

In 2018, the VA's Office of Inspector General (OIG) conducted a review of VA Policy for Administering TBI Examinations at the request of the House Committee on Veterans' Affairs, Subcommittee on Disability Assistance and Memorial Affairs. The report found that the "VA failed to implement procedures in 2008 to ensure Veterans received adequate TBI medical examinations." It noted that several changes to which health care specialists were designated to conduct TBI exams resulted in inconsistencies in medical examinations. A 2008 Veterans Benefits Administration (VBA) policy expanded the specialists designated to conduct exams from specialists in psychiatry, neurology, neurosurgery and psychiatry to also include qualified nurse practitioners, clinical nurse specialists and physician assistants to under the close supervision of a specialist. Between September 2007 and July 2015, the VBA and the Veterans Health Administration (VHA) changed their guidance on which specialists could perform TBI examinations five and four times respectively. Based on these findings, the OIG recommended that the VBA and VHA review TBI medical examinations and determine whether any Veterans were entitled to equitable relief due to receiving examinations by individuals who were not qualified to diagnose TBIs.

Our offices have since been contacted by Veterans reporting inconsistencies with their TBI diagnoses, specifically, within the Tomah and Minneapolis Health Care Systems. Some Veterans recount only receiving brief screening tools without undergoing significant diagnostic tests, such as CT scans. Others opted to seek care outside of the VA health care network and, after imaging and testing, were found to have a TBI, despite previous VA denials. Consequently, these Veterans missed out on vital treatments in order to mitigate their symptoms as well as receive disability benefits.

Following the 2018 OIG report, the VA notified more than 24,000 Veterans that they may be eligible for equitable relief. In order to receive relief, Veterans were directed to request new examinations within one year of the notification. Unfortunately, it is currently unknown how many Veterans received equitable relief. We remain concerned about the mental and physical repercussions stemming from any misdiagnoses as well as issues in providing continuity of care for any Veterans that did not receive equitable relief. Furthermore, we are worried that the

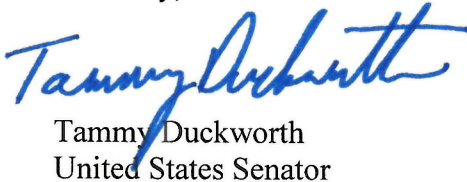
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process for receiving equitable relief may have been overly complicated, too limited in scope and placed too much of the burden on Veterans to navigate the process in a timely manner or miss out on benefits that they are owed. To provide clarity on the situation and to help us identify ways to work with the VA to address the problem, we request the following information:


1. Have the VBA and VHA implemented all recommendations included in the September 2018 OIG report and has the VA taken any additional steps to ensure Veterans are receiving adequate TBI medical examinations?
2. How many Veterans requested reexaminations for TBI-related issues? Of those, how many were granted relief?
3. How many Veterans were denied equitable relief due to missing the one year deadline?
4. If a Veteran believes they did not receive an accurate TBI diagnosis, what is the process for receiving a second opinion, specifically in rural VA facilities where only one TBI specialist is available?

We want to ensure the VA continues to provide timely and accurate care for Veterans. We appreciate your prompt attention to this matter and look forward to your response.

Sincerely,



Tammy Duckworth  
United States Senator



Tammy Baldwin  
United States Senator