



CONGRESSIONAL TESTIMONY

STATEMENT FOR THE RECORD

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO

PROVIDED TO THE

SENATE COMMITTEE ON VETERANS' AFFAIRS

HEARING ON

"VA'S RESPONSE TO COVID-19 ACROSS THE VA ENTERPRISE"

DECEMBER 9, 2020

Chairman Moran, Ranking Member Tester, and Members of the Committee,

The American Federation of Government Employees, AFL-CIO (AFGE) and its National Veterans Affairs Council (NVAC) appreciate the opportunity to submit a statement for the record on today's hearing titled, "VA's Response to COVID-19 across the VA Enterprise."

AFGE represents more than 700,000 federal and District of Columbia government employees, 260,000 of whom are proud, dedicated Department of Veterans Affairs (VA) employees. In our comments on how the VA has responded to the COVID-19 Pandemic, we discuss how VA policies and practices have impacted the health and safety of the frontline workers who provide health care and other critical services to our nation's veterans. We hope that you find our recommendations constructive, and we stand ready to work with the members of the Committee to make necessary and productive changes.

Overview

Since the start of the COVID-19 pandemic, AFGE has received a tremendous number of reports from front-line health care workers facing unprecedented risks to themselves and their families while trying to care for veterans. Amidst the widespread chaos at almost every VA medical center, the only consistency appears to be inconsistency.

With few exceptions, management policies and practices for Personal Protective Equipment (PPE), leave, staffing, telework, testing, and hazard and incentive pay, have been unpredictable, uneven, and arbitrary. Contrary to the public assurances made by Secretary of Veterans Affairs, Robert Wilkie, VA medical facilities still do not have adequate masks, respirators, gowns, hand sanitizers, testing, and other medical resources essential for the safe treatment of patients or to control the spread of this deadly virus.

PPE Supply Chain and Inventory Management

On May 28, 2020, at a hearing of the House Appropriations Military Construction, Veterans Affairs and Related Agencies Subcommittee, the Secretary's admission that each VA facility only has a two-week stockpile of PPE was troubling, but not surprising. Unfortunately, not much has changed since then. The VA released a report on October 27, 2020, titled "Coronavirus Disease 2019 (COVID-19) Response Report," which covers the period from the beginning of the pandemic through June 30, 2020. In the report, the VA concluded in relation to PPE supply chain issues that "[w]hile the supply chain issues (external and internal to [the Veterans' Health Administration (VHA)]) were major, VHA's interim mitigating actions succeeded in providing sufficient supplies and equipment to meet all demand for care and Fourth Mission responses." The report went on to say "[i]t is recommended that VHA modify the VHA Supply Chain Modernization Plan by incorporating elements of supply chain contingency resilience and accelerating transformation of management practices."

Despite being released less than two months ago, this report doesn't cover any of the actions the VA has taken, or failed to take, since June 30, 2020, and does not inspire confidence that the VA has made the changes necessary to prepare itself for either the current spike in COVID-19 cases nationally or the high possibility of another surge over the upcoming winter months.

AFGE remains deeply concerned that the VA's medical equipment supply chain has been severely weakened by the absence of coordination, transparency, national guidance, and consultation with frontline workers and their labor representatives. PPE acquisitions and distribution have been left largely to each medical center. These medical centers were not provided sufficient guidance from the VA Central Office (VACO), received insufficient recommendations from the Centers for Disease Control (CDC), and have failed to fully utilize

the extensive expertise and experience of VA contracting officers and frontline employees who experience firsthand the risks of working during this pandemic.

As a result, local procurement officers have been forced to compete for known PPE supplies instead of working together. At the same time, the VA's outdated inventory system has not allowed for the accurate tracking of PPE inventory levels. There is still no centralized system in place for facilities to exchange information about best practices and reliable suppliers, or to ensure reasonable pricing.

At the VA specifically, every VA employee who works at a medical facility needs adequate PPE; not just those who work in COVID units and "hot zones." Every employee can on short notice find himself or herself in a high risk situation even if his or her official duties are not within a "hot zone" because of a reassignment to a short staffed area, or an unexpected medical emergency involving a COVID-positive patient.

Too often, the PPE needs of critical support personnel are overlooked. These include entrance screeners, medical support assistants who do patient check-ins, housekeepers cleaning COVID units, maintenance workers disposing of trash, food service, canteen workers interacting with large numbers of employees and veterans, and logistics warehouse workers frequently interacting with commercial companies making deliveries. The VA must ensure that all VA personnel have the necessary PPE to keep employees and the veterans they treat safe.

AFGE questions why medical facilities continue to ration PPE and are slow to replace worn equipment despite reported increased inventory. We are also deeply troubled by reports that some managers hoard PPE or save PPE for colleagues who are not at risk, while forcing front-line employees to go without or plead for more protective PPE and replacements of worn out

PPE. Specifically, nurses at numerous facilities working in certain COVID-19 units are not automatically issued N-95 masks at work, and in some instances only receive them when a patient they are treating reaches a certain severity of illness. The VA should provide a N-95 mask and other appropriate PPE as employees begin their shifts to protect both the employee and the veteran.

PPE purchasing and distribution decisions at VA medical facilities are too often arbitrary. The shortages and uncertainty about future inventory resulting from supply chain weaknesses exacerbate the problem.

For these reasons, AFGE supports legislation that will increase the supply and proper distribution of PPE and other medical equipment through fuller utilization of the Defense Production Act (DPA), combined with vastly increased oversight and transparency of DPA activities. The country urgently needs a comprehensive strategy for ensuring adequate production and distribution of PPE and other medical equipment necessary to fight COVID-19 for all workers who need them.

AFGE strongly urges lawmakers to enact the PPE provisions in H.R. 6800, the “HEROES Act,” and other pending legislation including the final version of the National Defense Authorization Act that enhance DPA authority, require the President and the next administration to work with a team of federal agencies to carry out DPA activities, require extensive Congressional oversight through regular executive branch reports to Congress, and ensure transparency through public reporting requirements. More broadly, a strong federal supply chain is essential to ensuring that every federal and private sector worker receives the PPE he or she needs to perform their duties safely.

Other needed workforce protections and benefits

Presumption of Illness

As we continue to navigate this crisis, it is important that frontline employees who risk daily exposure to COVID-19 receive adequate resources and protection. AFGE urges Congress to amend the Federal Employees Compensation Act (FECA), the law that governs workers' compensation for federal employees, to provide an automatic presumption of workplace illness for employees who contract COVID-19 through the performance of their duties.

As VA employees are required to interact with the public, with individuals who are quarantined, and those who have been diagnosed with COVID-19, there should be a presumption that the employee contracted the virus at work. Enacting H.R. 6800, the "HEROES Act" would create a workplace presumption of illness will that allow federal employees who have contracted the virus in the performance of their duties to make a FECA claim without facing a potentially lengthy denial and appeals process, and help these workers receive the care and services they need.

Maintaining Proper Staffing Levels

AFGE learned from members shortly after the pandemic was declared that the normal staffing ratio at one facility was one Registered Nurse (RN) for every two COVID-19 patients. In that same facility the ratio has tripled to one RN for every six patients. This is both a result of the virus spreading at a rapid rate, and a significant number of RNs being on leave as a result of contracting COVID-19 or needing to quarantine. Additionally, it has been observed that other medical professionals who are not normally assigned to direct patient care have been put on the front lines.

With the virus continuing to spread and the nation facing an unprecedented year-end surge, the VA must take steps to increase the number of RNs and other essential frontline health care personnel to effectively take care of veterans and protect the workforce. Doing so will allow employees who are normally in direct patient care to return to their critical duties.

Pandemic Pay

AFGE supports COVID-19 premium pay for VA employees who are taking care of America's veterans and exposing themselves to the virus. While certain VISNs and medical centers have allowed for special pandemic pay or special pandemic awards, neither Congress nor the VA have required or directed a uniform system to help frontline healthcare workers. Due to this lack of centralization and uniformity, local directors and managers have been given extraordinary discretion to give awards, which has produced uneven results.

Unfortunately, a study conducted by AFGE and other unions showed a wide range in the amount and type of pandemic compensation given out in different facilities around the country. Many facilities awarded no special pay or awards, effectively creating a system where an employee's determination of pandemic pay is solely decided by the discretion and generosity of their supervisors. We have received reports of grossly unfair pandemic pay policies, such as supervisors with no patient contact receiving pandemic pay while frontline employees got none or select nursing assistants and licensed practical nurses receiving varying amounts of pandemic pay arbitrarily. We were disturbed to receive a report from a facility that contractors hired to take the temperatures of patients entering the facility were given pandemic pay, while VA employees working in COVID-19 units received nothing. Similarly, at another facility, some employees did not earn the same amount of pandemic pay as their colleagues because they contracted COVID-

19 while on duty and had to quarantine. This is unconscionable. AFGE calls on Congress to conduct oversight of the consistency and fairness of the VA's administration of pandemic pay.

Telework

AFGE strongly supports the use of telework generally and fully supports all efforts to allow VA employees to telework whenever possible during the COVID-19 pandemic for the safety of employees, veterans, and the public. In the VA, the benefits of telework have already been demonstrated at the Veterans Benefits Administration (VBA), where claims are being processed at a higher rate since employees have been required to work remotely, compared to before the pandemic when VBA put up restrictions making it more difficult for employees to be granted the ability to telework. In VHA, the use of telework has not been used to its maximum availability. This is particularly true for administrative work that does not require in person interaction with patients such as third-party collections and Office of Community Care consults.

AFGE commends the VA for expanding the use of telehealth and telemental health during the pandemic and urges it to continue to expand its telehealth capacity. The VA's telehealth and telemental health systems have long been models for the rest of the country. The Department should be provided the resources to continue to expand veterans' access through the provision of more tablets and other needed technology to veterans for access to remote health care services. We strongly urge the Committee to continue prohibiting Community Care Network providers and other contractors from providing telehealth and telemental health services and instead, use VA-provided virtual care to expand access to its world-class care wherever possible. AFGE was pleased to learn that since the start of the COVID-19 pandemic, the VA has changed its policy to allow exams for 29 specific conditions to take place virtually, and we urge the Department to continue to expand that authority for the safety of veterans and employees.

VBA IT Capacity

The technological issues plaguing VBA have been thrown into sharper relief during the COVID-19 Pandemic. When VBA developed its system to allow employees to perform their duties remotely, it was not built to support the entirety of the claims processing workforce performing their duties from home simultaneously. It has become a regular occurrence for VSRs and RVSRs on the east coast to log in every morning and get logged out of the system in the afternoon when their counterparts on the west coast start their day. Despite this obstacle, VBA claims production has increased during the course of the pandemic compared to pre-pandemic levels. Nonetheless, VBA must invest more money into its technology to remedy problems that allow employees to both protect themselves and better serve veterans.

Temporary OSHA Standard

One of the simplest steps that the federal government could take to protect workers, including frontline VA healthcare providers, from contracting the COVID-19 virus is to have the Occupational Safety and Health Administration (OSHA) issue an Emergency Temporary Standard (ETS). If the Secretary of Labor were to issue an ETS, all employers, including the federal government, would be required to meet a federally mandated and enforceable standard to protect employees from contracting the COVID-19 virus. As the government has yet to implement an ETS despite the clear need, AFGE supports S. 3677, the “COVID-19 Every Worker Protection Act of 2020.” This legislation would require the government to issue an ETS, as well as prevent employers from being able to retaliate against workers who report infection control problems in the workplace. AFGE also supports the provision of H.R. 6800, the “HEROES Act,” which would also require OSHA to implement an ETS.

Labor Voice/Stakeholder Engagement

In order to ensure adequate PPE, testing, commonsense leave policies, and other policies that ensure the safety of veterans and workers going forward, VA leadership should work with employee union representatives to accurately assess workforce and staffing needs.

Every day, VA frontline employees and the veterans they serve feel the harsh effects of the Secretary's insistence on silencing the voices of the VA workforce and their labor representatives. From the outset of this pandemic, AFGE and other unions representing VA frontline workers have been shut out of the agency's response teams at both the national and local level. All our requests to help the VA effectively respond to COVID-19 have been rejected, despite direct pleas to the Secretary and the much-appreciated requests to the Secretary by Members of Congress. The Secretary's unwillingness to listen to the frontline employees who deliver the care, and their representatives, is a stark departure from the labor-management partnerships that allowed the VA to fulfill all its missions during hurricanes, epidemics, and other past national crises. The Secretary should be urged to take the simple, cost saving and productive step of increasing dialogue.

We stand ready to work with the Committee and the incoming administration on all the steps needed to protect veterans and the VA workforce as the nation continues to cope with COVID-19 and proceed to new stages of reopening. Thank you.