

United States Senate

WASHINGTON, DC 20510

[[DATE]]

The Honorable Doug Collins
Secretary of Veterans Affairs
U.S. Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420

Dear Secretary Collins,

We write in strong opposition to a proposed Department of Veterans Affairs (VA) rule entitled “Schedule for Rating Disabilities--Ear, Nose, Throat, and Audiology Disabilities; Special Provisions Regarding Evaluation of Respiratory Conditions; Respiratory System” (RIN: 2900-AQ72) that would dramatically reduce benefits for more than one million veterans suffering from sleep apnea and tinnitus. We urge you to listen to the growing opposition from veterans and publicly commit to addressing their concerns.

We laud your decision earlier this year to rescind an interim final rule after it faced significant backlash from the veterans’ community. At the time you stated, “Veterans spoke, and [VA] listened.” We ask that you again heed concerns from the medical and veterans’ communities about the benefits they receive to address tinnitus and sleep apnea. VA must make clear it will not punish veterans seeking effective sleep apnea treatments or deny veterans with service-connected tinnitus the benefits and health care they have earned.

Tinnitus is the most common service-connected disability recognized by VA, with an estimated 3.6 million veterans receiving benefits for this condition. The most controversial proposal in the draft rule would eliminate tinnitus as a stand-alone disability – instead requiring veterans to be service connected for an underlying pathology related to hearing loss. According to the draft rule’s regulatory impact analysis, more than 60 percent of veterans who submit claims for tinnitus-related benefits are not service connected for an underlying pathology. Those veterans would no longer qualify for life-saving VA health care and benefits. In total, VA’s analysis concluded that nearly one million veterans would have their monthly disability compensation reduced by the change.

Our urgent concern is validated by the American Tinnitus Association’s comments to the draft rule that “tinnitus often occurs independently of any other health condition.” The American Tinnitus Association made clear that medical research, including VA-commissioned studies, confirms the debilitating effects of tinnitus and the need for it to remain a stand-alone disability. It warned that removing the stand-alone disability would also hinder research to improve tinnitus treatments and efforts to find a cure. Also important, the American Legion in its comments categorized the change as problematic because it conflicts with several “court decisions that recognize tinnitus as a stand-alone condition.”

Sleep Apnea is a breathing disorder that involves a decrease or complete halt in airflow despite an ongoing effort to breathe. More than 763,000 veterans receive VA benefits for service-connected sleep apnea. The draft rule would reduce the level of compensation veterans receive for their service-connected sleep apnea to zero. This change is similar to a recent interim final rule you rescinded after the veterans' community made the case against reducing ratings for veterans who comply with their doctors' orders. Veterans' service organizations have made clear that veterans who use effective medical devices should not have their disability compensation lowered. In its comments on VA's draft rule, Disabled American Veterans argued that using effective medication does not eliminate the underlying conditions' impact on veterans' earning potential, which is the basis for VA's schedule for rating disabilities. Medications help improve function and mask symptoms, but they do not eliminate the impact of living with a disability.

Along with the draft rule, we are equally opposed to the Take Care of America's Veterans Act because it codifies the same harmful reductions in benefits for veterans with tinnitus and sleep apnea benefits. By writing these cuts into statute, the legislation would permanently implement the very policies that veterans, medical experts, and veterans' service organizations have overwhelmingly opposed. Whether implemented through regulation or enacted by Congress, these cuts would strip disabled veterans of earned compensation and health care benefits – they should be rejected outright.

At your confirmation hearing last year, you pledged, “We’re not going to balance budgets on the back of veterans’ benefits.” We urge you to honor that commitment by abandoning these proposals and to further reject any legislation that would permanently cut off these benefits to veterans. We look forward to working with you to ensure our nation’s veterans receive the care and benefits they deserve.

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