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December 6, 2018

VIA ELECTRONIC TRANSMISSION

The Honorable Robert Wilkie
Secretary
U.S. Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, D.C. 20420

Dear Secretary Wilkie,

I am writing to express my concern and disappointment with the failure of the Department of Veterans Affairs (VA) to fully implement sections 107 and 501 of the Harry W. Colmery Veterans Educational Assistance Act (P.L. 115-48), known as the "Forever GI Bill," in accordance with the law. The VA's inability to implement these key provisions has caused significant hardship for thousands of Veteran students whose Basic Allowance for Housing (BAH) was either underpaid, or worse, not paid at all. As a result, many Veterans were unable to pay rent, tuition, buy books or put food on the table when the 2018 fall semester began. VA was still unprepared even though they were given more than \$4 billion a year for information technology improvements and had over a year to prepare for the changes required under the law. Now, Congress and thousands of Veterans are being told that section 107 will not be able to be implemented until December 2019 – a full 16 months past the original implementation date Congress mandated.

Furthermore, it was recently reported that making retroactive payments to Veterans for missed or underpaid housing stipends would not be possible because it would create auditing challenges for the VA and delay future claims processing. In testimony before the House Veterans Affairs Committee on November 29, 2018, Under Secretary for Benefits Paul Lawrence gave lawmakers assurances that "every Veteran would be made whole." However, despite the Under Secretary's efforts to provide clarification, confusion remains. Based on the Under Secretary's testimony, it would appear that while the VA intends to make Veterans whole with respect to section 501, there is less certainty as to whether the VA intends to make Veterans whole with respect to section 107.

Dr. Lawrence appeared to assert, at numerous occasions during the hearing, that the VA would unilaterally decide upon a new implementation date of section 107. Consequently, the VA would not retroactively pay Veteran students BAH owed to them under the new zip code calculations as required by section 107. This would not just be in direct contravention of Congress' intent, or the spirit of the law, but it would be in direct violation of the actual letter of the law. I would remind you that any such move would require a statutory change and thus, Congressional authority. It is

critical that the VA make Veterans whole for any missed or underpaid benefits to which they are legally entitled, regardless of the burden it may place on the VA. Additionally, I would also request that you take the following further actions:

1. That Veterans who were underpaid or did not receive any payments be paid back with interest;
2. That the VA pay any financial penalties incurred by Veterans due to missed or underpaid BAH payments;
3. That the VA, in coordination with the Consumer Financial Protection Bureau (CFPB), provide explanatory statements to the credit reporting agencies, alerting them to the possibility of Veterans incurring adverse financial information in their credit reports. Moreover, VA must work with the credit reporting agencies to fix any negative credit ratings Veterans may receive.

I consider these steps to be the minimum remedies that the VA must undertake to make the Veterans truly whole.

The VA's failure in this instance, and the continued ambiguity surrounding Veterans' retroactive payments, undermines Veterans' faith and confidence in the VA. It is imperative that the technical and staffing shortages that led to this problem be fixed and that the VA live up to its requirements and make all student Veterans who were adversely affected, whole, as originally intended by the Forever GI Bill. Failure to do so would represent a breach of trust with those who have already selflessly given so much.

I thank you for your prompt attention to this matter and for considering this request.

Sincerely,



Tammy Duckworth
United States Senator