

United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

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January 19, 2011

The Honorable Robert Gates
Secretary of Defense
U.S. Department of Defense
1000 Defense Pentagon
Washington, D.C. 20301-1000

Dear Mr. Secretary:

I am writing to request information regarding TRICARE's contracts to study the effectiveness of cognitive rehabilitation therapy for the treatment of traumatic brain injury.

As you know, traumatic brain injury is a serious concern for our active duty and retired military service members and their families. According to the Defense Department, over 195,000 service members have suffered a traumatic brain injury (TBI) since 2000. Because that number includes only those cases where individuals were clinically screened for TBI and diagnosed by a medical provider, the overall number of individuals suffering from TBI is likely even higher.¹

On August 4, 2008, I joined nine other senators, including then-Senator Barack Obama, to urge the Defense Department to cover cognitive rehabilitation therapy through TRICARE, the Department's health care program for service members. We noted that the American medical community, including the National Institutes of Health, the National Academy of Neuropsychology, and the Brain Injury Association of America, recognized cognitive rehabilitation as a proven treatment for TBI, and that the treatment was covered by numerous public and private insurers. While we agreed that further research on cognitive rehabilitation therapy was appropriate, we also called for the Defense Department to err on the side of providing this proven treatment to service members.²

Today, more than two years after that request, the Defense Department still does not cover cognitive rehabilitation therapy as a separate service for active duty service members

¹ Department of Defense, Defense and Veterans Brain Injury Center, *Department of Defense Numbers for Traumatic Brain Injury* (online at <http://www.dvbic.org/TBI-Numbers.aspx>) (accessed Jan. 11, 2011).

² Letter from Sen. Evan Bayh, Sen. Barack Obama, Sen. Hillary Clinton, Sen. Ken Salazar, Sen. Edward M. Kennedy, Sen. Joe Lieberman, Sen. Jeff Bingaman, Sen. John F. Kerry, Sen. Blanche L. Lincoln, and Sen. Claire McCaskill to Defense Secretary Robert Gates (Aug. 4, 2008).

participating in TRICARE. In November 2010, the Defense Department reported to Congress that this policy is largely based on a 2009 study of existing scientific literature, which found insufficient evidence that cognitive rehabilitation therapy was effective. The study was conducted by ECRI Institute, a non-profit health research organization. According to the Department, the ECRI Institute study “was negatively influenced by differences in outcomes assessed and by an insufficient number of studies addressing outcomes.”³

In December 2010, a series of reports by Pro Publica and National Public Radio questioned the validity of the ECRI Institute study. According to these reports, outside experts who reviewed the ECRI Institute study called it “deeply flawed” and in conflict with other, similar studies. The experts also questioned the methodology of the study, including the decision to exclude important research. In addition, the reports suggest that the Defense Department may have awarded the \$21,000 contract to ECRI Institute with the expectation that ECRI Institute would reach the same conclusion as a 2007 review ECRI Institute conducted for TRICARE, which also concluded that there was limited evidence of the effectiveness of cognitive rehabilitation therapy.⁴

If true, these reports raise significant questions regarding the Department’s award and management of the contract with ECRI Institute, and may have profound implications for hundreds of thousands of injured service members and their families. To assist the Subcommittee in understanding this important issue, I request that you provide the following information and documents:

- (1) Contract No. H94002-05-D-0003 Task Order 33 and all amendments or modifications;
- (2) The final report prepared by ECRI Institute under Contract No. H94002-05-D-0003 Task Order 33 and all prior drafts submitted to the Department for review;
- (3) A list of all other organizations considered by the Department to conduct the study ultimately performed by ECRI Institute under Contract No. H94002-05-D-0003 Task Order 33;
- (4) All reviews, outside analyses, scientific critiques, and evaluations of the report prepared under Contract No. H94002-05-D-0003 Task Order 33;
- (5) All prior contracts, including task orders, with ECRI Institute or other vendors related to cognitive rehabilitation therapy;

³ Department of Defense, *Report to Congress on the Studies of Cognitive Rehabilitation Effectiveness for Traumatic Brain Injury in Response to Section 723 of the National Defense Authorization Act for Fiscal Year 2010* (Nov. 22, 2010).

⁴ *Pentagon Contractor Finds Therapy Inconclusive*, NPR News/ProPublica (Dec. 20, 2010).

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- (6) All reviews, reports, or analyses relating to the costs of cognitive rehabilitation therapy for traumatic brain injury;
- (7) All documents relating to TRICARE's determination whether to cover cognitive rehabilitation therapy for traumatic brain injury, including TRICARE's final determination; and
- (8) A list of all contractor personnel involved with the administration, management, or oversight of TRICARE contracts and programs relating to treatment of traumatic brain injury.

I request that you provide this information as soon as possible, but in no case later than **February 18, 2011**. I also request that you provide a briefing for Subcommittee staff on or before **February 25, 2010**. If you determine that you will be unable to comply with this schedule, please contact Subcommittee staff to discuss possible modifications.

The jurisdiction of the Subcommittee on Contracting Oversight is set forth in Senate Rule XXV clause 1(k); Senate Resolution 445 section 101 (108th Congress); and Senate Resolution 73 (111th Congress). An attachment to this letter provides additional information about how to respond to the Subcommittee's request.

I appreciate your assistance. Please contact Alan Kahn with the Subcommittee staff at (202) 224-3230 with any questions. Please send any official correspondence relating to this request to kelsey_stroud@hsgac.senate.gov.

Sincerely,



Claire McCaskill
Chairman
Subcommittee on Contracting Oversight

cc: Scott Brown
Ranking Member

Enclosure