

VETERANWARRIORS "ONE FAMILY, ONE FIGHT"

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The Honorable Gus Bilirakis
2112 Rayburn HOB
Washington, DC20515

Via email

RE: Hearing Request: Veteran Caregiver Program – Unlawful Terminations/Tier Reductions

Honorable Congressman Bilirakis,

The following is submitted as a formal request for your support in scheduling a public hearing with the House Committee on Veterans Affairs, Subcommittee on Health; regarding unlawful revocations and tier reductions (on a national level) from the Veteran Caregiver Program.

Several months ago, Veteran Warriors began receiving reports of wholesale terminations and tier lowering in the Veterans Caregiver Program from across the nation. Even more disturbing were the terms being used to justify the terminations and the fact that most of the terminations were cases in which the veteran's condition(s) had deteriorated yet they were still terminated. From our research, less than .01% of the appeals (first level is the Board, the second and last appeal is to the VISN) are overturned.

For several weeks, we have been conducting blind surveys of those affected by these revocations or reductions in tier level. We have combined our survey results with reports we have found in media searches. Our research has uncovered some very disturbing facts about unlawful changes that have been made to the Veteran Caregiver program, and put into action without Congressional or even VA Central Office approval.

Here are the facts we have found thus far:

Roughly 8000 families (veterans and their caregivers) have been terminated (the VA term is "revocation") in less than 2 years and the pace appears to be pickup up steam.

The unlawful language includes words such as; "Graduated", Short-Term, Recovery/Recovery-Based". None of these words are in the law or the Final Rule. To be precise, the Final Rule actually states:

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"...As we stated in the interim final rule, we believe that it is reasonable to interpret section 1720G, which premises eligibility upon a serious injury incurred or aggravated in the line of duty, to require that the serious injury form the basis for the individual's need for a Family Caregiver. It would not have been reasonable for Congress to have authorized VA to provide Family Caregiver services to veterans and servicemembers with serious injuries but not to have also required that the need for such services be specifically linked with the serious injuries. We also interpret section 1720G to provide Family Caregiver support and assistance for the benefit of individuals with longterm disabilities, and not episodic flare ups that temporarily establish the need for a Family Caregiver; this is the basis for the required six-month period. We reiterate from the interim final rule that this requirement meets the intent of the statute to benefit persons with longer term care needs. The law contemplates training, payment of compensation, and ongoing monitoring of veterans receiving Family Caregiver services in their homes, all of which support a framework that will benefit those with longer-term care needs."

We believe it all began two years ago as a "testing of the waters" subversive policy change; has now come full circle to what is being propagated as "an official Policy Change". However, there is one major FLAW in this "policy change"... that being; the VA does not have the legal authority to alter the architecture, intent or letter of the law.

Even the most cursory of internet searches provides an eye-opening and disturbing picture emerging; that within the last two years, roughly 8,000 veterans and their caregivers have been "revoked" from the program. Even more have had their "Tier" (level of need as prescribed by law) lowered down to the lowest level. To further research these reports, we began surveying those who were terminated or lowered by the program officials. In about four weeks, we have had nearly 300 responses from across the country – all of which support the reports we had found.

In spite of the blatant lack of authority, the VA has moved ahead with the "Policy Change" to the extent that they are demanding under the threat of revocation, (their term for termination from the program), that every veteran and caregiver agrees to a set of terms and conditions the VA claims they have a right to enforce. The true irony in this is that the VA will continually spew that they "care for the best interests of the veteran"; when nothing could be further from the truth. This is evident by their actions. This "policy change" is stripping not just a financial stipend from the veteran and their caregiver; but health insurance, support resources, respite care and a host of other services that remaining in the program provides. The bigger, more sinister side of these actions is the "unintended consequences" of these terminations.

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These changes began in earnest two years ago; but have picked up momentum over the last few months. Last fall, eighty-eight percent (88%) of the entire case load in the Prescott, AZ VCP office was terminated in just a matter of weeks. Yet there are two Caregiver Coordinators handling a case load of thirty veterans. In the Puget Sound, WA VCP; the number of revocations was not as radical, yet in spite of reducing their case load, they doubled their CGC staff! (<http://www.thenewstribune.com/.../milita.../article56571708.html>). So far, the metro Denver, CO region has seen the most drastic numbers for terminations, (<http://www.denverpost.com/.../veterans-in-denver-see-cuts-in.../>).

In nearly every single revocation case Veteran Warriors has examined, we have found nearly identical language; "The veteran no longer requires support", "Graduated", "Recovery-based", and "A Temporary Program Designed to See the Veteran Graduate". Not one of the terms is in the "Caregivers and Veterans Omnibus Health Services Act of 2010" or its companion Final Rule (published January 9, 2015). Even more egregious is the now well-publicized dismissal of using the Activities of Daily Living (ADL's) as part of the criteria for eligibility. Again, there have been no amendments to the law and no authorized policy changes which would have provided the VA with the authority to make these sweeping alterations to the program.

Alongside these unlawful terminations have been threats to caregivers and outright intimidation; even actual fabrication or alteration of veteran's records to support the terminations and threats and retaliation against caregivers who have challenged the Coordinators. There are "clinical evaluations" which appear to cursory reviews of exclusively VA medical records and those Coordinators who are doing this; in many cases deliberately excluded recent, significant medical information in these evaluations. In many cases, the Coordinators are aware of the veteran's deterioration(s) yet annotate the file that the veteran has "significantly improved" and "no longer requires a caregiver".

We have discovered another violation of the law; when a Caregiver Coordinator admitted that she would "be the one to handle the appeal if (the Caregiver) went over her head". In most cases, one could assume this was simply a threat or even hyperbole yet we have heard statements like this from other regions of the country as well. This has shown us is our theory about the membership of the mandated "Appeal Boards" may well be accurate; that there are no "Appeal Boards" held; that the Director's and VISN Directors simply "concur" with the revocation because THAT is actually their protocol.

In concert with normal protocols to obtain resolution in any system, most caregivers have escalated their concerns upward in the VA facilities leadership chains. Nearly every single one

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has been ignored, rebuffed in favor of the opinions of the Coordinators or openly retaliated against. We have found significant evidence that Ms. Margaret "Meg" Kabat, Director of the Veteran Caregiver Program; has known about this situation for over two years and in many cases; been contacted either directly by the Caregiver or by an advocate on behalf of one or more caregivers. In all cases, Ms. Kabat has feigned ignorance of the situation and cites a "lack of authority" to obtain fair and equitable resolutions. What Ms. Kabat has consistently failed to do, is apprise her superiors of the rampant and unlawful actions of those under her direction or take any action that would enforce the mandates of the laws governing this program as well as the ethics regulations for federal employees.

The structural damage to the program and the veterans' goes far beyond just the stipend loss. There is a massive ripple effect which takes place when the stipend is taken away. Many of these veterans suffer from severe PTSD. In nearly every case, the caregiver has had to leave full time employment to care for the veteran more than full time; far exceeding what would be normally considered "spousal duties". These families are being left with no access to medical insurance for the caregiver, a loss of a significant income and facing the possibility of having to leave the veteran alone to return to work. This exacerbates the veteran's symptoms AND any progress or leveling off of the veteran's symptoms is completely lost as soon as this happens.

For those veterans with serious physical injuries, they are left without any assistance with such tasks as dressing, bathing and even feeding themselves. Each family is being set up for failure and deliberately being put at risk for; foreclosures, homelessness, suicide, domestic violence, bankruptcy, child endangerment and even murder. This is not hyperbole or inflammatory rhetoric; these are real reactions that are now being seen across the veteran community.

The consequences of ripping away the scaffolding that supports these injured veterans is actually happening. The effects are already being felt in the veteran community and it will only get worse if these unlawful changes are allowed to fester. The law which governs this program was put in place because the civilian community is ill-equipped to provide "adult day care" to thousands of profoundly disabled veterans; nor should it be required to.

On behalf of the thousands of disabled veterans and their caregivers affected by this situation; Veteran Warriors is formally requesting that your office put forth and endorse our request for a public hearing within the House Committee on Veterans Affairs, to review the actions of the Caregiver Coordinators and their leadership as it relates to the implementation and conduction of this program. We will be sending this request to that Committee directly as well and hope that you will support all efforts to insure that a hearing is scheduled with the utmost haste.

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Very respectfully,

YNI Lauren Price USN, (Ret.)
Founder and Public Affairs Representative
Veteran Warriors

ENC: Veteran Warriors Survey Results
Case Collection
GAO Report

CC: Mr. Donald Trump, President, The White House
Dr. David Shulkin, Secretary of Veterans Affairs
Dr. Philip Roe, Chairman, House Committee on Veterans Affairs
Representative Jack Bergman, Chairman, House Committee on Veterans Affairs, Subcommittee on
Oversight and Investigations
Representative Brad Wenstrup, Chairman, House Committee on Veterans Affairs, Subcommittee on Health