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The history that is VA moratoriums:

VA has been told repeatedly by both the House and the Senate Committees on Veterans Affairs, and both Appropriations Committees not to restrict program eligibility, it is undeniable, and VA ignored Congress repeatedly, therefore, why would anyone praise VA on a pause to review criteria they were explicitly told they were not to create, including definitions they were told not to attempt to define?

- **Despite any argument to the contrary, these modifications are not MISSION Act-driven and undertaken wholly by the Administration without Congressional direction.**
- While expanding the Caregivers Program to veterans of all eras and making veterans with service-connected illnesses eligible are significant, and highly supported, provisions in the proposed rule, **we have concerns related to narrowed veteran eligibility for the Caregivers Program and planned modification for how caregivers' stipends are paid.** In particular, **we oppose the provisions that would narrow eligibility for the Program and urge the Administration to reconsider these proposals as discussed below.**
- Had Congress contemplated a minimum rating it would have included that requirement in the original or subsequent legislation.
- " We offer that a clinical determination of a veteran's need is not a rating decision adjudicated by a non-health care professional at the Veterans Benefits Administration.
- In addition, **eligibility criteria are explicitly stated in the statute and, while it includes flexibility for the Department to make additional categories of veterans eligible, the statute does not include authority for the Department to curtail the specified eligibility criteria.** For reasons stated above, at minimum, **we request the Administration eliminate this proposal.**
- Had we intended to scale-back eligibility for the Program based on the type of injury, we would have done so prior to offering legislation expanding the number of eligible individuals.¹
- How should VA define veterans who are most in need? The Department should not attempt to create such a definition.²
- Focusing on a purported scale of need is outside the intent of the law as written. Any new criteria based on this would artificially limit the eligible population when these types of restrictions appear nowhere in the statute³
- Further, it is not the Department's purview to create such artificial restrictions, contrary to current law. Rather, VA is obligated to request sufficient funds and other resources to fulfill its obligations under the law.⁴
- Instead of attempting to limit eligibility or support, we expect the Department to submit a comprehensive budget request sufficient to cover all eligible veterans and caregivers, with services of the quality the American people demand for our veterans, and to prepare for future expansion of the program as clearly recommended by our Members and the veteran community.⁵

¹ February 5, 2018 House Committee on Veterans' Affairs

² February 5, 2018 House Committee on Veterans' Affairs

³ February 5, 2018 House Committee on Veterans' Affairs

⁴ February 5, 2018 House Committee on Veterans' Affairs

⁵ February 5, 2018 House Committee on Veterans' Affairs

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- Congress specifically rejected a criteria of limiting eligibility to only those veterans who would otherwise require institutionalization in developing the final Caregivers and Veterans Omnibus Health Services Act.⁶
- The intent of the law was not to replace institutionalization but support family members willing to sacrifice and provide the opportunity for the veteran to receive care at home. The law was designed to help keep veterans in the safest, most appropriate setting for their health and care needs. The need for institutionalization is not synonymous with the severity of illness or injury, and takes into consideration a number of factors that are not necessarily the same as a caregiver situation and would therefore be arbitrary if applied to Caregivers eligibility.⁷
- We are concerned that this solicitation's focus on eligibility, combined with the administration's recent concerns regarding "fiscal constraints" as noted in its recent redline document provided to the Senate Committee on Veterans' Affairs regarding S. 2193, Caring for Veterans Act of 2017, and emphasis on focusing resources on "Veterans who need it most", amounts to an attempt to justify cuts or changes to the Program at the expense of our most vulnerable veterans rather than an opportunity to assess the program's strengths and weaknesses.⁸
- We urge the administration to consult with Congress on the nature of these issues before moving forward with any modifications to eligibility.⁹

April 17, 2017, 06:07:00 PM

VA Announces Internal Review of Caregiver Program

<https://www.va.gov/opa/pressrel/pressrelease.cfm?id=2889>

- Today the Department of Veterans Affairs (VA) announced that, effective April 17, it has suspended revocations initiated by VA medical centers based on eligibility for the Program of Comprehensive Assistance for Family Caregivers (PCAFC) for three weeks.
- "VA is taking immediate action to review the National Caregiver Support Program to ensure we honor our commitment to enhance the health and well-being of Veterans," said Dr. David J. Shulkin, Secretary of Veterans Affairs. "I have instructed an internal review to evaluate consistency of revocations in the program and standardize communication with Veterans and caregivers nationwide."
- VA Medical Centers will continue accepting PCAFC applications, approving applicants based upon current eligibility criteria, processing appeals and monitoring eligible Veterans' well-being at least every 90 days, unless otherwise clinically indicated.
- "Caregivers play a critically important role in the health and well-being of Veterans, and caring for an injured Veteran is a labor of love," said Dr. Poonam Alaigh, Acting VA Under Secretary for Health. "We remain focused on process improvements and support services for our family caregivers so they can take care of our Veterans."

May 11, 2017, 09:16:00 AM

VA Announces Short-Term Extension of Strategic Review of Program of Comprehensive Assistance for Family Caregivers

⁶ February 5, 2018 House Committee on Veterans' Affairs

⁷ February 5, 2018 House Committee on Veterans' Affairs

⁸ February 5, 2018 House Committee on Veterans' Affairs

⁹ February 5, 2018 House Committee on Veterans' Affairs

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<https://www.va.gov/opa/pressrel/pressrelease.cfm?id=2902>

- Today, the U.S. Department of Veterans Affairs (VA) announced a six-week extension of the strategic review of its Program of Comprehensive Assistance for Family Caregivers.
- On **April 17**, the Department of Veterans Affairs (VA) announced a decision to temporarily halt certain revocations from the Program of Comprehensive Assistance for Family Caregivers because of concerns about inconsistent application of eligibility requirements for the program throughout its medical centers.
- VA will use the six-week extension of that temporary halt to complete its review of the program. At the end of that review, the VA intends to provide clarity on enrollment criteria for the program and to seek authorization to use the program's existing resources for those who need them most.
- *"We are extending our strategic review of the Program of Comprehensive Assistance for Family Caregivers to make sure everyone — from our Veterans and their caregivers to our employees who work with them — has clear guidance on enrollment criteria for the program,"* said VA Secretary Dr. David J. Shulkin. *"Our Caregiver Support Program is making a difference in the lives of our Veterans and the caregivers who support them, and we want to make sure the program is operating in the best way for them, and above all that the program's existing resources go to those Veterans who need them most."*

July 28, 2017, 03:33:00 PM

VA Caregiver Support Program Resumes Full Operations

<https://www.va.gov/opa/pressrel/pressrelease.cfm?id=2933>

- Today the Department of Veterans Affairs (VA) announced it is resuming full operations of the Program of Comprehensive Assistance for Family Caregivers. The resumption follows an April 17 decision to temporarily suspend certain clinical revocations from the program to conduct a strategic review aimed at strengthening the program.
- **"VA has taken immediate steps to improve the program's operations,"** said VA Secretary David J. Shulkin, M.D. *"Our top focus during the review has been to listen, evaluate and act swiftly to make changes that will better meet the needs of our Veterans and caregivers. This does not mean our work is done. We will continue to refine and improve this important program."*
- VA's three-month review indicated a need for better communication about clinical revocations, improved internal processes and procedures, and additional staff training.

Jan. 5, 2018, 04:05:00 PM

VA Seeks Public Comment on Program of Comprehensive Assistance for Family Caregivers

<https://www.va.gov/opa/pressrel/pressrelease.cfm?id=3994>

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- Today the U.S. Department of Veterans Affairs (VA) announced it is seeking public comments on how it can further strengthen and improve caregiver support through the Program of Comprehensive Assistance for Family Caregivers (PCAFC).
- Through a Federal Register notice, VA announced a 30-day comment period to hear from stakeholders on whether and how PCAFC should be refined to support Veterans and their family caregivers. "With this opportunity, **VA is following through on our promise to,**" said VA Secretary Dr. David J. Shulkin. "**We've heard participants' concerns and encourage them to share their personal experiences and perspectives to help us make changes.**"
- VA will use feedback, requested through responses to questions, to guide any future regulatory modifications to support family caregivers of Veterans most in need, while also improving the program under the current law.

January 5, 2018¹⁰¹¹

Notice of Request for Information on the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers (PCAFC)

<https://www.federalregister.gov/documents/2018/01/05/2018-00004/notice-of-request-for-information-on-the-department-of-veterans-affairs-program-of-comprehensive>

- We are issuing this notice in order **to solicit input** on several components of the program, as further explained below. This notice and request for information **serves as a means for VA to consult with key stakeholders** on **whether and how PCAFC should be modified** to provide the highest quality care and support to veterans and their family caregivers in a consistent manner. We will use the information to inform any updates to this program and its implementing regulations.
- **The intent of this notice is for VA to garner input from the public on whether and how to change its regulations under the current statute.**
- This requirement is set forth in 38 CFR 71.20(c), in which we require that the serious injury renders the veteran in need of personal care services for a minimum period of six continuous months based on specified criteria. Otherwise, **the criteria under § 71.20(c) do not distinguish between, or require, any specific degree of need for assistance (e.g., in frequency, complexity, or scope).**
- VA has found variability in how these three considerations are applied by clinicians assessing whether participation in PCAFC is in a veteran's best interest.
- Once a veteran has been determined to be eligible for the program and a family caregiver has been approved and designated, the veteran's well-being is monitored by VA no less often than every 90 days, unless otherwise clinically indicated. 38 CFR 71.40(b)(2). Currently, **there is no regulatory requirement to reassess eligibility.**

¹⁰ **May 18, 2021 Senate Committee on Veterans' Affairs letter to VA** - As early as 2018, we cautioned VA against considering any modifications to eligibility that would lead to any decrease in benefits provided or number of beneficiaries served. Again in 2019 and 2020, we expressed our concern with VA inappropriately curtailing access to the program. Instead, VA chose to ignore input from veterans, advocates and members of Congress and tighten eligibility in a manner not intended by Congress.

¹¹ **February 5, 2018 House Committee on Veterans' Affairs Public Comment Submitted on Rule** - We want to strongly caution the agency against considering any modifications to eligibility that would lead to any decrease in benefits provided or number of beneficiaries served. If Congress intended to scale-back eligibility for the Program based on the type of injury, it would have specified it in statute.

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- **Request for Information¹²**

○ Through this notice, we are soliciting information on PCAFC. We ask respondents to address the following questions, where possible, in the context of the discussion in this document. Commenters do not need to address every question and should focus on those that relate to their expertise or perspectives. To the extent possible, please clearly indicate which question(s) you address in your response. As previously mentioned, responses to this request will inform our updates to PCAFC. Accordingly, we request comments on the following:

1. Should VA change how "serious injury" is defined for the purposes of eligibility?

a. Should the severity of injury be considered in determining eligibility to ensure VA is supporting family caregivers of Veterans most in need? If so, how should the level of severity be determined?

b. How should VA define veterans who are most in need?

c. Should eligibility be limited to only those veterans who without a family caregiver providing personal care services would otherwise require institutionalization? If so, how should this be determined?

2. One of the bases upon which a veteran can be determined to need personal care services is his or her need for supervision or protection based on symptoms or residuals of neurological or other impairment or injury.

a. What should be the criteria to assess a veteran's need for supervision or protection?

b. What standardized tools should be used to assess a veteran's need for supervision or protection because of a mental health condition?

3. To be eligible for the program, participation must be determined to be in the "best interest" of the veteran. How should "best interest" be defined?

a. How can VA improve consistency in "best interest" determinations for participation in the program?

b. Are there any conditions under which participation would not be in a veteran's best interest?

4. Once approved for PCAFC, should the veteran's eligibility be reassessed at specific time intervals or based on certain clinical indicators?

a. If so, what intervals and/or what clinical indicators should be used?

b. Should reassessments be standard for every participant? Are there conditions under which continued eligibility should be presumed and a reassessment not needed? If so, what would these conditions be?

5. When VA determines that a veteran or family caregiver is no longer eligible for PCAFC or the family caregiver or veteran no longer wishes to participate in PCAFC, the family caregiver's designation is "revoked". The term "revok[ed]" is used in the statute (38

¹² Who provided input?

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U.S.C. 1720G(a)(9)(C)(ii)(II)); however, stakeholders have expressed concerns that this term is not supportive of participants. What terminology should VA use in reference to those participants who are determined to be no longer eligible for the program?

a. Should VA use such language as removal, discharge, or graduate in reference to participants who become ineligible for the program?

6. Should the timeframes for continuation of benefits for family caregivers who are revoked from the Program be modified?

a. If so, how?

b. Under what circumstances should family caregiver benefits be continued after revocation? For example, should VA continue providing benefits to a family caregiver who requests revocation due to an unsafe environment created by a veteran, such as an instance involving intimate partner violence committed by a veteran? How long should the benefits be continued under such circumstances?

7. VA's methodology of stipend calculations using the U.S. Department of Labor's Bureau of Labor Statistics (BLS) wage rates is complex and creates variability in stipend amounts annually across localities. How should VA calculate stipend rates?

a. What other standards or rates should VA consider using to calculate stipends?

b. Should VA use one BLS rate per state, *i.e.*, one rate that is applicable to all veterans residing in a particular state?

c. Should VA have one stipend amount for all primary family caregivers?

8. A veteran is assigned a stipend tier based on the amount and degree of personal care services provided. How should VA assess and determine the amount and degree of personal care services provided to the veteran by the family caregiver?

a. How should "degree of" need be determined, for both physical needs and those related to the need for supervision and protection?

b. Should "degree of" need be based on *either* physical needs *or* needs related to psychological disorder? Or should all factors be considered together?

c. Should the three tier system be changed? If so, how should it be changed?

Nov. 28, 2018, 08:56:00 AM

VA seeks public comment on Program of Comprehensive Assistance for Family Caregivers, as amended by VA MISSION Act of 2018

<https://www.va.gov/opa/pressrel/pressrelease.cfm?id=5152>

- "VA values the knowledge, skill, and perspectives of all caregivers," said VA Secretary Robert Wilkie. "This public comment period demonstrates our desire to create a program that best serves the participating caregivers and Veterans."

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- Submitted responses will be used to guide future regulatory modifications and implementation of the expanded PCAFC.

Dec. 21, 2018

VA announces moratorium on discharges and decreases from comprehensive caregiver program

<https://www.va.gov/opa/pressrel/includes/viewPDF.cfm?id=5169>

- The Department of Veterans Affairs (VA) announced today that **it will temporarily suspend discharges and decreases in level of support** from its Program of Comprehensive Assistance for Family Caregivers because of continued concerns expressed by Veterans, caregivers and advocates about **inconsistent application of eligibility requirements** by VA medical centers.
- *"It is essential that we get this right,"* said VA Secretary Robert Wilkie. *"This affects one of our most vulnerable Veteran populations and we need to make sure we have consistency on how we process and evaluate benefit applications across VA."*
- The **suspension does not impact** the current application process.
- VA medical centers **are continuing to accept and approve applications** to the family caregivers program **based on current eligibility criteria** along with processing appeals and monitoring eligible Veterans' well-being at least every 90 days, unless otherwise clinically indicated.
- In addition to initiating an internal review, **VA will continue to solicit feedback from external stakeholders**. VA is **reviewing policy changes** as well as pursuing long-term legislative and regulatory changes.

Sep. 25, 2019, 11:00:00 AM

VA strengthens Caregiver Support Program and expands timeline of the Program of Comprehensive Assistance for Family Caregivers

<https://www.va.gov/opa/pressrel/pressrelease.cfm?id=5319>

- *"Caregivers play a critical role in the health and well-being of some of our most vulnerable Veterans,"* said VA Secretary Robert Wilkie. *"Under the MISSION Act, we are strengthening and expanding our program to positively impact the lives of Veterans and deliver the best customer experience to them and their caregivers."*
- In **December 2018, VA suspended certain discharges from the program due to ongoing concerns about inconsistent application of eligibility requirements** at VA medical centers. **Since then, VA has held listening sessions** with caregivers and other stakeholders, **developed or amended 14** standard operating procedures to clarify program requirements for VA staff...
- Additionally, **VA has gathered input and is developing regulatory changes** to streamline the program and provide more clarity for Veterans and their family caregivers. VA will publish a proposed rule for public comment prior to issuing final regulations.

March 4, 2020, 03:37:00 PM

VA publishes proposed regulations to improve the Program of Comprehensive Assistance for Family Caregivers

<https://www.va.gov/opa/pressrel/pressrelease.cfm?id=5398>

- The U.S. Department of Veterans Affairs (VA) will publish a **proposed rule** in the Federal Register March 6 that would improve and standardize **VA's Program of Comprehensive Assistance for Family Caregivers (PCAFC)** and ensure the program regulations reflect changes required by the **VA MISSION Act of 2018**.
- In the proposed rule, VA seeks to standardize eligibility by expanding the definition of serious injury to include any service-connected disability — regardless of whether it resulted from an injury, illness or disease — defining what it means to be in need of personal care services, and ensuring that the eligibility criteria capture the personal care service needs of Veterans and

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Servicemembers with cognitive or neurological impairment or mental health conditions, among other things.

- "We owe a tremendous debt of gratitude to caregivers who work tirelessly to provide critical support for our nation's Veterans," said VA Secretary Robert Wilkie. "This proposed regulation would improve the assistance we provide to help ensure our most vulnerable Veterans can stay in their homes with their loved ones for as long as possible."
- The regulations are part of a broad effort to strengthen PCAFC in advance of a planned expansion under the MISSION Act which expanded eligibility for PCAFC to eligible Veterans from all eras, beginning with those who incurred or aggravated a serious injury in the line of duty on or before May 7, 1975.
- These changes are necessary as VA prepares to expand PCAFC.

March 6, 2020¹³

Proposed Rule

<https://www.federalregister.gov/documents/2020/03/06/2020-04464/program-of-comprehensive-assistance-for-family-caregivers-improvements-and-amendments-under-the-va>

July 31, 2020, 09:57:00 AM¹⁴

VA publishes final regulation for its Program of Comprehensive Assistance for Family Caregivers

<https://www.va.gov/opa/pressrel/pressrelease.cfm?id=5494>

- The U.S. Department of Veterans Affairs (VA) today published its final regulation to improve and expand the VA Program of Comprehensive Assistance for Family Caregivers (PCAFC) with the final regulation going into effect on Oct. 1.
- Under the final regulation, PCAFC will include eligible Veterans that have a single or combined service-connected disability rating by VA of 70% or higher, regardless of whether it resulted from an injury, illness or disease.
- This is a notable change to the definition of serious injury from the current regulations, among other improvements aimed at standardizing the PCAFC and improving transparency in the program
- "The expanded regulation addresses the complexity and expense of keeping Veterans at home with their families who provide personalized care," said VA Secretary Robert Wilkie. "This will allow our most vulnerable Veterans to stay with their loved ones for as long as possible. Expanding the program and eligibility for the Program of Comprehensive Assistance for Family Caregivers ensures we can continue to meet the changing needs of America's Veterans and their caregivers."

¹³ **May 5, 2020 Senate Committee on Veterans' Affairs Public Comment to Proposed Rule** - While expanding the Caregivers Program to veterans of all eras and making veterans with service-connected illnesses eligible are significant, and highly supported, provisions in the proposed rule, we have concerns related to narrowed veteran eligibility for the Caregivers Program and planned modification for how caregivers' stipends are paid. **In particular, we oppose the provisions that would narrow eligibility** for the Program and urge the Administration to reconsider these proposals as discussed below.

¹⁴ **May 18, 2021 Senate Committee on Veterans' Affairs letter to VA** - As early as 2018, we cautioned VA against considering any modifications to eligibility that would lead to any decrease in benefits provided or number of beneficiaries served. Again in 2019 and 2020, we expressed our concern with VA inappropriately curtailing access to the program. Instead, VA chose to ignore input from veterans, advocates and members of Congress and tighten eligibility in a manner not intended by Congress.

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- Additionally, the new regulation will change the PCAFC stipend payment methodology, define new procedures for revocation and discharge, and include certain advance notice requirements aimed at improving communication between VA and PCAFC participants as well as include information for current program participants. VA is also standardizing operating procedures for the Caregiver Support Program...

July 31, 2020¹⁵

VA issues Final Rule

<https://www.federalregister.gov/documents/2020/07/31/2020-15931/program-of-comprehensive-assistance-for-family-caregivers-improvements-and-amendments-under-the-va>

Oct. 1, 2020, 02:00:00 PM

VA Program of Comprehensive Assistance for Family Caregivers begins expanding eligibility to Veterans of earlier eras

<https://www.va.gov/opa/pressrel/pressrelease.cfm?id=5533>

- VA Secretary Robert Wilkie. "Today begins the first phase of expansion of the Program of Comprehensive Assistance for Family Caregivers. **Through this expansion, VA is able to give more family caregivers¹⁶ access to essential resources** so we can support them as they care for Veterans of earlier eras."

March 25, 2022

2022 Legacy Reassessment

https://www.caregiver.va.gov/support/PCAFC_Reassessments.asp

PCAFC – Reassessments

As part of the [VA MISSION Act of 2018](#), VA has initiated a large-scale effort to complete reassessments of [Legacy Participants](#), [Legacy Applicants](#) and their Family Caregivers participating in the Program of Comprehensive Assistance for Family Caregivers (PCAFC).

Program of Comprehensive Assistance for Family Caregivers (PCAFC) Reassessment News

VA is committed to supporting Veterans' caregivers as a top priority.

We are listening to concerns and working diligently to address them as we continue to ensure Veterans and their caregivers get the support they need and deserve.

Here's what Veterans' caregivers can expect:

- We're going to **review** and **examine** the Program of Comprehensive Assistance for Family Caregivers (PCAFC) **eligibility criteria**.¹⁷

¹⁵ The very rule that Congress rejected restrictions of eligibility.

¹⁶ This is proven to be false, just as Veteran Warriors stated.

¹⁷ Third official review

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- We're going to **complete reassessments of Legacy Participants**,¹⁸ Legacy Applicants and their Family Caregivers. Any caregiver eligible for an increase in caregiver benefits will receive them.
- We will **not** remove anyone from the program or decrease any support based on reassessments¹⁹ before we re-examine our current eligibility criteria.²⁰ **We will consider making changes if necessary.**²¹
- The program is still on track to expand to include Veterans of all service eras on October 1, 2022.
- There's a lot to do to build on these first steps and we'll communicate those details as they come. **We'll stop at nothing to make sure Veterans and their caregivers get the support they need and deserve.**²²
- **We are working diligently to develop additional information**²³ for Legacy Participants, Legacy Applicants and their Family Caregivers who have already received reassessment determinations.

¹⁸ Read 2017 and 2018 again, business as usual

¹⁹ Concern for post October 1, 2020 applicants: are they included?

²⁰ This doesn't mean you won't be discharged as soon as the review is complete.

²¹ No guarantee of change. Same as before.

²² Third time.

²³ Repeating the same lines..

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