

VETERAN WARRIORS

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MISSION ACT vs PCAFC Regulation

MISSION Act contained three small sections for the PCAFC in Subtitle C – Family Caregivers Sec. 161, 162, and 163, giving clear and unmistakable instruction as to Congress' intent and expectations for the program:

- **161** – expansion of the program to include veterans of all eras,
- **162** – implementation of the IT system to assess and improve the program, and
- **163** – modification of the annual evaluation report with a description of any barriers to accessing and receiving care and services.

It is undeniable, Congress' intent was to **expand** the program to support more veterans, instead, there is:

- Undue stress of **redundant** (5) **annual assessments** to determine eligibility in addition to Wellness visits during the year. If the veteran is unable to participate in any part, including severe illness or chronic pain from debilitating conditions, the veteran risks discharge.
- An arbitrary **minimum 70% rating**, VA misinterprets low ratings as not significant enough to warrant assistance and disregards ratings that support a need for assistance, such as SMC for Aid and Attendance.
- Level 1 – Veteran must demonstrate a pattern of need for supervision, protection, or instruction to maintain personal safety **daily**. Lacks transparent eligibility criteria, the definition of *daily*, failure to understand such needs are neither scheduled nor predictable. PCAFC decisions often contradict medical records.
- Level 1 – Veteran must require hands-on assistance each time at least 1 ADL is completed; veteran's ability to complete the task 1 out of 10 times disqualifies the veteran. PCAFC decisions often contradict medical records.
- Level 2 – Veteran must require "**continuous**" supervision, protection, or instruction to maintain personal safety. Lacks transparent eligibility criteria, the definition of *continuous*. PCAFC decisions often contradict medical records that reflect a constant need.
- Level 2 – Veteran must require hands-on assistance with at least **(3) ADLs each time** ADLs are completed **and** be "**fully dependent**" on a caregiver. VA defined *fully dependent* as requiring assistance with each step each time, unable to complete any part of a task; such expectations are unreasonable.
- PCAFC improperly changed VHA definitions included in VHA Directive 1411 that is used for all VHA programs, presumably to dismiss the need for assistance with Instrumental Activities of Daily Living (IADLs) due to *impairments*, which Congress included in the law as *personal care services*. Veterans with cognitive, mental, or physical impairments generally require substantive assistance on a continuous basis with more complex tasks or functions required to maintain their personal life and environment, such as shopping for food, cooking, doing laundry, house cleaning, managing money, managing medications, driving/using public transportation, or using the phone. Such needs are considered under other VHA programs for caregiver services, it is improper to deny these veterans access.
- PCAFC has chosen an all-or-nothing approach to the stipend to limit eligibility and appropriate

stipend amount. MISSION Act states the stipend amount should not be less than a home health care entity would pay to provide equivalent care and that the amount of time required to provide such services must be considered.

- PCAFC states “to ensure that PCAFC is implemented in a standardized and uniform manner across VHA” they will use their own assessments, and presumably their own definitions, however, PCAFC falls under VHA Office of Patient Care Services (PCS) – Program Offices which holds the same definitions for all other caregiver type services, such as Home-Based Primary Care and Homemaker and Home Health Aide Care.

- PCAFC failed to meet the IT certification which delayed entry of veterans who served on or before May 7, 1975. VA’s delay of expansion has pushed Gulf War-era veteran eligibility back another two years, leaving this era to question their upcoming eligibility date of Oct. 1, 2022, there are valid community concerns for more delays.

- PCAFC has restricted program access to veterans living abroad since its inception in 2011, although restriction is not a requirement of the 2010 Caregivers and Veterans Omnibus Health Services Acts or the MISSION Act of 2018. Some Post 9/11 veterans have applied and were told they are not allowed to apply, some have pushed for a denial letter and received the letter. Veterans with spinal cord injury who need a caregiver for bowel and bladder services are authorized a stipend, but VA insists it isn’t feasible to provide caregiver services to other veterans. Out of 55,000 registered, only about 4,500 were active users in the Foreign Medical Program for fiscal year 2020. With modern technology, there is no justification to continue denying access to US veterans living in foreign countries.

The unreasonable regulation is compounded by the level of corruption by unpublished internal rules, such as:

- PCAFC is interpreting the term “regular” to mean the same as their current definition of concurrent, which is used for other VHA community-based services as a duplication of services. PCAFC’s rule of forbidding the veteran from receiving *regular* caregiver assistance from another person in the caregiver’s absence is unreasonable after misinterpreting Congress’ intent. *Regular* includes going to the gym for an hour 3 days a week, monthly outings with a friend for a short break, caregiver’s regular medical appointments including counseling. Self-care is effectively removed.

- The unpublished internal prohibition on a veteran or caregiver working or attending school, even when the veteran’s needs are adequately met, and the need for assistance is irrelevant to the employment or education.

- PCAFC’s blatant disregard of the veteran’s medical record, including assessments that directly contradict provider notes, is an unethical practice of intentionally falsifying documentation used to skew the decision of a veteran’s actual need. Some caregivers are veterans, PCAFC crosses a boundary accessing the caregiver’s VA medical record to document information related to the care provided to the veteran in need; this is unacceptable.