



Veteran Warriors' Recommendations for "VA Caregiver Program" Program of Comprehensive Assistance for Family Caregivers Legislation and Regulation

March 6, 2023

Veteran Warriors' recommendations for legislative and regulatory changes that would benefit the Veteran and Caregiver community are focused on the community as a whole, without division among the eras or injuries. With several bills on the table and the discussion of regulatory changes, it's important to note the needs of the Veteran and Caregiver community as a whole, which has not yet been addressed in any of the legislation to date. A bill with specific language will provide explicit eligibility criteria and protection provisions for participants and clarify to avoid confusion and hostile relationships between staff and the community.

The 2018 MISSION Act demanded that the program be expanded and enhanced. Still, little focus was put on the actual needs of this community, therefore creating a need to make a list of these needs public to avoid any further complacency.

1. PROTECTIVE STATUS to ensure continuity of care and services regardless of future program changes.

↪ No current participant, Legacy or Post-Expansion, in the Program of Comprehensive Assistance for Family Caregivers shall be discharged due to regulation changes for eligibility after entering the program.

↪ No reduction in stipend or benefits for any current participant.

❖ Example: Legacy participants still on BLS rate because it is substantially higher than the GS rate for their locality.

❖ Rationale: There should never be a negative effect due to a change in regulation when a participant is already receiving a benefit under a prior regulation. Such changes could create hardship for participants.

↪ When regulation changes increase stipend or benefits, such changes should be made if it benefits current participants.

❖ Example: Tier 1 Legacy vs Level 1 Post-Expansion, all Tier 1 participants should receive the minimum Level 1 stipend.

❖ Rationale: Increasing benefits for future participants due to any subsequent regulation changes would create inequality amongst the participants even when providing the same or more care.

➤ Note: VA standard practice is not to reduce benefits that are currently received when there are changes in regulations, but if there is a positive change, then benefits are increased with a change in regulation.

2. NO FUTURE VETERAN ELIGIBILITY REASSESSMENT for any future participant whose condition is not expected to improve unless requested by the Veteran and/or Caregiver.

↪ Any veteran awarded permanent Special Monthly Compensation for Aid and Attendance due to requiring personal assistance from another person to perform the personal functions

required in everyday living should qualify for the highest stipend of Caregiver Support within the program.

- ↪ This would not include caregiver eligibility in circumstances where a caregiver becomes unable or unwilling to provide the services needed or cause.
 - ❖ Example: Neurological conditions including MS, ALS, Parkinsons, Fibromyalgia, Lupus, Chronic Fatigue, severe TBI, cognitive disorders, conditions or illnesses that affect processing, Dementia, Alzheimer's, degenerative conditions, demyelinating diseases.
 - ❖ Rationale: It would be a waste of the government's use of resources to constantly reevaluate a Veteran who is known to have a condition that is unlikely to improve and where it is a generally understood assumption that the individual would need care provided throughout the remainder of their lifetime. There are better uses for such resources that could be helping other Veterans who may not be identified as "unlikely to improve."

3. **REMOVE** the following eligibility regulatory criteria:

- ↪ **"70%"** as the definition of serious injury.
 - ❖ Rationale: VA's 2020 definition is too restrictive and not factoring in the point of a VA rating; ratings do not dictate the level of assistance a Veteran needs. Additionally, VA ratings are notoriously inaccurate and are known for being low. It would be negligent of VA to restrict the program solely to Veterans with a 70% rating.
 - ❖ Example: Below the knee amputation is 40%, that would not be considered a "serious injury" because the definition says the Veteran would need to be rated at least 70%.
 - ❖ Example: Amputations that rate the knee joint unusable is a 60% rating, but that would not be considered a "serious injury" based on the program's 2020 regulation's definition.
- ↪ **"each time"** requirement for assistance with an ADL.
 - ❖ Rationale: VA's 2020 definition is too restrictive and not within standard clinical practice guidelines. A Veteran is expected to require assistance with a single (the same) ADL "each time" they perform the ADL. If the Veteran can do the ADL one out of 10 times, the Veteran is deemed independent by the 2020 regulation. This is unacceptable and unreasonable.
- ↪ **"fully dependent"** definition currently defined as "completes no part of the ADL" to qualify for Level
 - ❖ Rationale: VA's 2020 definition is too restrictive and not within standard clinical practice guidelines. A Veteran may be "fully dependent" on a Caregiver to complete an ADL **if** the Veteran cannot complete the ADL without assistance; this does not mean the Veteran cannot complete any portion or help with any part of the ADL.
- ↪ **Residency requirement** to allow for eligibility for Veteran's living abroad.
 - ❖ Rationale: Veterans in the Spinal Cord Injury's Bowel and Bladder Program are authorized a caregiver of their choice, similar to the Caregiver Program. Therefore, they should also be entitled to PCAFC.

4. **DEFINITION CHANGES** to be changed to the following criteria:

- ↪ **"serious injury"** to mean an injury, illness, or impairment that renders the veteran in need of personal care services.
- ↪ **"personal care services"** to mean a need for regular assistance from another person with activities of daily living (ADLs), instrumental activities of daily living (IADLs), or supervision, protection, or instruction (SPI) due to a serious injury as defined above.

5. **ELIGIBILITY ASSESSMENT** to include:

- ↪ the need for **ADL, IADL, and SPI** assistance for neurological impairments.
- ↪ the need for prompting and cueing for cognitive disorders.



↪ the needs for all medical conditions as a whole.

6. STIPEND DETERMINATIONS to include a totality need for ADL, IADL, and SPI; currently, only ADL or SPI is selected, often rendering a Veteran at a lower stipend.

↪ **Level 1 should be met if assistance is required for:**

- ❖ 2 or less ADLs **and** at least 1 includes toileting **or** mobility; **or**
- ❖ 2 or less ADLs that do **not** include toileting or mobility and at least 2 IADLs; **or**
- ❖ SPI **and** at least 2 IADLs

↪ **Level 2 should be met if assistance is required for:**

- ❖ 3 or more ADLs; **or**
- ❖ 2 or more ADLs **and** 1 is toileting **or** mobility **and** a need for 3 or more IADLs; **or**
- ❖ SPI **and** a need for 3 or more IADLs

7. ENHANCED BENEFITS to include:

↪ **Social Security Credits** for caregivers, currently caregivers are not given social security credits for the work they're doing by providing care to their veteran.

↪ **Child Care Allowance** for families with children to offset the cost of appointments, include it with the travel voucher.

↪ **Chapter 35 Education Benefits** time of use deadline for caregivers should be waived (or removed). A 10-year use deadline for spouses and children must be before 26.

↪ **DIC Conversion** to provide the caregiver with the veteran's full VA compensation payment upon the veteran's death for caregivers who have served 10 or more years as the veteran's caregiver, as they would have given up their careers and retirement to care for their veterans.

↪ **Public Service Credit** for student loan forgiveness.

8. Caregiver Application and Additional Needs to include:

↪ **Secondary Caregivers** should not have to reapply to be appointed as Primary Caregiver.

- ❖ **Rationale:** Joint applications which include an approved Secondary Caregiver require the Secondary Caregiver to undergo the same training as the Primary Caregiver and
- ❖ attend the assessment appointments. It's unacceptable to expect a Veteran and Secondary Caregiver who has already been approved under the process to undergo the process again and is considered a waste of resources.

↪ **Clause for "Exceptional Circumstances"** such as divorce, death, marriage, illness, or accident to allow for a change of Caregiver without reassessing a Veteran.

- ❖ **Rationale:** If a Veteran is found eligible for the program, a change in circumstance would not automatically make said Veteran ineligible. In VA's duty to assist, it would be expected that VA would willingly accept a request for change in Caregiver and evaluate the Caregiver's abilities via the training, which means that other Caregivers are expected to undergo, absent the Veteran's eligibility.

↪ **Dependency Clause** to authorize DIC eligibility and benefits to any Primary Family Caregiver who is not a spouse but *is a family member as defined by VA* **and** has chosen to serve in the capacity of Primary Family Caregiver in caring for the Veteran **and** who would otherwise **not** be eligible for DIC benefits upon the Veteran's death.

- ❖ **Rationale:** Primary Family Caregivers come in all shapes and sizes, but when it comes to giving up careers to care for their Veterans, one thing remains true for all: they make the decision to care for their Veterans without a second thought for their own future, the Veteran's needs are put first, before their own, even if that means they may not be able to make ends meet later.

These are spouses, parents, children, grandchildren, and many others. Under current statutes, most are ineligible for DIC benefits and would therefore be ineligible for DIC

conversion upon the Veteran's death. If they have served as Primary Family Caregivers, they have forfeited their retirement to care for the Veteran and, therefore, should be eligible for DIC benefits.

We propose that Congress strongly consider our recommendation of DIC Conversation for all Primary Family Caregivers who meet the eligibility criteria for DIC.

↩ **Program Reporting System** Program Reporting System for participants and applicants to report misconduct, inaccurate assessments, request assessor or CSC changes, etc.

- ❖ Rationale: Applicants and participants are typically stonewalled and feel they have no other avenue to advocate for themselves or their Veterans. By providing a reporting system that would go directly to Dr. Richardson or her team, many of the issues within the field at the local levels could be handled much quicker. This would provide for better accountability and could begin to build back some of the trust that has been lost within the program.

Disclaimer:

These are the recommendations of Veteran Warriors for legislative and regulatory changes to the VA Program of Comprehensive Assistance for Family Caregivers.

This is a running list of community recommendations. This list may be updated at times.

For context or more information, contact our Caregiver Team at Caregiver@veteran-warriors.org.