



ISSUE BRIEF: COMPREHENSIVE CAREGIVER SUPPORT

The Situation

- To recognize and assist family caregivers who play a critical role in caring for and supporting veterans severely injured in the line of duty, the Department of Veterans Affairs' (VA) Program of Comprehensive Assistance for Family Caregivers (PCAFC) provides caregiver assistance, including access to health coverage, respite care to avoid caregiver burnout, caregiver training, modest stipends to offset the financial impact of caregiving and other forms of support.
- The MISSION Act of 2018 (Public Law 115-182) expanded access to PCAFC to family caregivers of veterans severely injured before September 11, 2001.
- The VA opted to include service-connected illness and injury in their final regulations for eligibility for PCAFC in line with DAV's recommendation. However, ongoing delays in implementing the IT system required to administer the program meant the first phase of veterans (those injured or made ill prior to May 7, 1975) were not made eligible until October 1, 2020—one full year later than planned.
- In April 2021, the Court of Appeals for Veterans Claims (CAVC) in *Beaudette v. McDonough* ruled that the VA must provide every veteran and caregiver who ever applied for PCAFC benefits the right to appeal unfavorable decisions to the Board of Veterans' Appeals.
- In September 2021, the VA agreed to implement the *Beaudette* decision, notwithstanding that the administration later petitioned the Court to overturn *Beaudette*. Although veterans and caregivers may now file formal appeals, the VA has yet to establish an open, transparent and effective system for processing these appeals.
- In March 2022, the VA announced it was extending the time that legacy participants, legacy applicants and their family caregivers within the PCAFC would remain eligible for the program. This included all services, supports and benefits for another three full years, until September 30, 2025.

The Challenge

- Changes to the comprehensive caregiver program were welcomed, but many legacy veterans were deemed ineligible for the caregiver program or veterans' ratings were changed to lower level caregiver stipend tiers with little or no explanation.
- Veteran Service Organizations (VSOs) that are accredited by the VA to represent veterans and caregivers during the appeals process, such as DAV, have not yet been given access to the complete records of veterans we represent, hindering our ability to properly support their appeals for caregiver benefits.
- VA has not addressed the long-standing systemic problems related to eligibility and overall has not been able to administer the eligibility, reassessment and appeals processes consistently, transparently and equitably.

The Solution

- We urge Congress to continue working with the VA, DAV and other VSOs supporting veteran caregivers, to ensure that this invaluable program has the proper rules and resources to meet our nation's obligations to veterans' family caregivers.
- Congress must work with VA to guarantee the continuation of full due process, notification and appeal rights provided by the *Beaudette* decision and the Appeals Modernization Act.
- VA should promulgate regulations to create more consistent, transparent and equitable eligibility criteria and reassessment rules for the PCAFC.
- VA must provide detailed explanations on how standards will be measured and applied in each decision notification that is sent to veterans and caregivers.
- VA needs to revise the regulatory standard that a veteran must require assistance "each time" they complete an activity of daily living. It is unreasonable to have a standard under which a veteran who could muster the physical energy and mental acuity to complete each ADL one time a week, would not even qualify for the lower tier of the caregiver program.
- VA needs to give equal consideration to ensuring that a replacement standard can be objectively, consistently, and equitably assessed and administered.
- VA should take into consideration whether the underlying conditions for a qualifying ADL are likely to improve in determining when to reassess a veteran's need for caregiver assistance, similar to how the Veterans Benefits Administration administers regulations related to routine future disability compensation reexaminations.
- VA should not require annual reassessments of a veteran's qualifying ADLs if they are based on disabilities unlikely to improve.
- VA needs to create a simpler assessment tool that is more objective and looks at veterans holistically.