

**STATEMENT FOR THE RECORD
OF
THE AMERICAN LEGION
TO THE
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
ON
"DEPARTMENT OF VETERANS AFFAIRS' PROGRAM OF COMPREHENSIVE
ASSISTANCE FOR FAMILY CAREGIVERS"**

FEBRUARY 6, 2018

Chairman Roe, Ranking Member Walz, and distinguished members of the House Committee on Veterans' Affairs, on behalf of Denise H. Rohan, National Commander of The American Legion, the country's largest patriotic wartime service organization for veterans, comprising 2 million members and serving every man and woman who has worn the uniform for this country; we thank you for the opportunity to testify on the topic of the "Department of Veterans Affairs' Program of Comprehensive Assistance for Family Caregivers."

Veteran Caregivers have long proven critical to the livelihoods of disabled and severely wounded veterans. On a daily basis, veteran caregivers help veterans bathe and dress, administer medication, or removing barriers to free movement in the community, veteran caregivers are the difference between a veteran being limited by a disability and living productively. The passage of the Caregivers and Veterans Omnibus Health Services Act of 2010 (Public Law 111-163), which provided caregiver support to those who only served post 9/11 and has exceeded original enrolment expectations has certainly shown us that there is a greater than anticipated need for this critical program.

The American Legion has long advocated that the Caregiver Program at the Department of Veterans Affairs (VA) be expanded to include all generations of veterans. All veterans, regardless of what era they served in, deserve equality in terms of benefits, including fair access to the Caregivers Program. If a member of the armed forces was harmed in the line of duty for their country, their benefits should not differ because they served in Vietnam, the Gulf War, or Korea and not in Iraq or Afghanistan. The American Legion calls on this committee to pass meaningful legislation that removes the arbitrary rule preventing equality among those veterans who have literally bled for this nation.

Background and Eligibility

On May 5, 2010, President Obama signed into law the Caregivers and Veterans Omnibus Health Services Act of 2010. Among other things, title I of the law established 38 U.S.C. 1720G, which requires VA to "establish a program of comprehensive assistance for family caregivers of eligible veterans," as well as a program of "general caregiver support services" for caregivers of "veterans who are enrolled in the health care system established under [38 U.S.C. 1705(a)]."

Among other things, the law authorized the Secretary to provide family caregiver services of an eligible veteran if the Secretary determines it is in the best interest of the eligible veteran to do so. The law defined an eligible veteran as any individual who—

“(A) is a veteran or member of the Armed Forces undergoing medical discharge from the Armed Forces;

“(B) has a serious injury (including traumatic brain injury, psychological trauma, or other mental disorder) incurred or aggravated in the line of duty in the active military, naval, or air service on or after September 11, 2001; and

“(C) is in need of personal care services because of—

“(i) an inability to perform one or more activities of daily living;

“(ii) a need for supervision or protection based on symptoms or residuals of neurological or other impairment or injury; or

“(iii) such other matters as the Secretary considers appropriate.”

The purpose of the 2010 caregiver benefits program was to provide certain medical, travel, training, and financial benefits to caregivers of certain veterans and servicemembers who were seriously injured in the line of duty.

VA initially estimated that roughly 3,596 veterans and servicemembers would qualify to receive benefits under the program during the first year, at an estimated cost of \$69,044,469.40 for FY2011 and \$777,060,923.18 over a 5 year period. VA distinguished between three types of caregivers based on the requirements of the law: Primary Family Caregivers, Secondary Family Caregivers, and General Caregivers.

A Primary Family Caregiver is an individual designated as a “primary provider of personal care services” for the eligible veteran under 38 U.S.C. 1720G(a)(7)(A), who the veteran specifies on the joint application and is approved by VA as the primary provider of personal care services for the veteran.

A Secondary Family Caregiver is an individual approved as a “provider of personal care services” for the eligible veteran under 38 U.S.C. 1720G(a)(6)(B), and generally serves as a back-up to the Primary Family Caregiver.

General Caregivers are “caregivers of covered veterans” under the program in 38 U.S.C. 1720G(b), and provide personal care services to covered veterans, but do not meet the criteria for designation or approval as a Primary or Secondary Family Caregiver.

On May 3, 2011, VA rolled out the program by issuing a National Press release entitled, *VA to Take Applications for New Family Caregiver Program..* VA announced that it was opening the application process on May 9, 2011 for eligible post-9/11 Veterans and Servicemembers to designate their Family Caregivers.¹

In September 2014, the Government Accounting Agency issued its first report on VA’s Caregivers program, Government Accountability Office (GAO) report-14-675, entitled, *Actions*

¹ May 3, 2011 VA Press Release <https://www.va.gov/opa/pressrel/pressrelease.cfm?id=2088>

*Needed to Address Higher-Than-Expected Demand for the Family Caregiver Program.*² According to GAO, Veteran Health Administration (VHA) officials originally estimated that about 4,000 caregivers would be approved for the program by September 30, 2014. However, by May 2014 about 15,600 caregivers had been approved—more than triple the original estimate.

In 2015, veterans and their caregivers began sharing reports where they were being cut from the Program of Comprehensive Assistance for Family Caregivers (PCAFC). On April 17, 2017, VA announced it would suspend revocations of benefits initiated by VA medical centers for the PCAFC, pending a full review of the program. The announcement came two weeks after media coverage revealed that some VA medical centers have been dropping Caregivers from the program at alarming rates, likely due to budget constraints.

The suspension of revocations would last three weeks, according to VA. Secretary of Veterans Affairs David Shulkin ordered the internal review. Secretary Shulkin stated the review was intended to “evaluate consistency of revocations in the program and standardize communication with Veterans and caregivers nationwide.”³

On July 28, 2017, the VA announced it was resuming full operations of the PCAFC. The resumption follows an April 2017 decision to temporarily suspend certain clinical revocations from the program to conduct a strategic review aimed at strengthening the program.⁴

VA’s three-month review indicated a need for better communication about clinical revocations, improved internal processes and procedures, as well as additional staff training. Following the review, VA issued a new directive outlining staff responsibilities, veteran and caregiver eligibility requirements, available benefits and procedures for revocations from the program.

VA also conducted mandatory staff training on the new directive and implemented standardized communications and outreach materials to educate veterans and their caregivers about the program.

The new directive provided background on the Caregiver Support Program authorized by title I of Public Law 111-163, Caregivers and Veterans Omnibus Health Services Act of 2010, and Title 38 United States Code (U.S.C.) 1720G. The directive specified VA staff responsibilities for the implementation of the Program of Comprehensive Assistance for Family Caregivers and the Program of General Caregiver Support Services, collectively referred to as the Caregiver Support Program. The directive also described aspects of program operations, including the different

² GAO Report-14-675, <https://www.gao.gov/assets/670/665928.pdf>

³ VA Announces Internal Review of Caregiver Program
<https://www.va.gov/opa/pressrel/pressrelease.cfm?id=2889>

⁴ VA Caregiver Support Program Resumes Full Operations -
<https://www.va.gov/opa/pressrel/pressrelease.cfm?id=2933>

kinds of caregivers, the eligibility of veterans for the program, the eligibility and requirements for caregivers, and the benefits available to caregivers.

Moving forward, in January of 2018 the VA announced it was seeking public comments on how it could further strengthen and improve the caregiver support through the PCAFC. The American Legion is looking forward to reviewing those comments in concert with VA and assisting in making the necessary changes to alter the program for the better.

Recommendations

The American Legion has long advocated and stood on the right side of providing those who have been disabled through military service the services and assistance needed to live as much a normal life as possible. Through our advocacy, and the support of this committee, legislation has been signed into law that created the current program, that does indeed provide quality support to those who are deserving. Without question there has been concern, but when necessary, the VA made the corrections to furnish the care and support needed by our nation's heroes.

1. **National Standard:** One concern that has not only been brought to the attention of The American Legion, but also the VA, and others is that each Medical Center Director has the authority to approve or deny veterans into the PCAFC. This means that there are 167 different standards of eligibility held by the 167 different VAMC (Veterans Affairs Medical Center) Directors. When there is not a national standard, or consistency, it leads to a system that is unfair, granting access or denial by dissimilar levels of eligibility, and that is not reasonable. Though VAMC Directors often express that each case brought to them for approval or denial should truly be decided on a case-by-case situation, The American Legion urges this committee to instruct VA to have a national standard, that is consistent, fair, and reasonable. Having a consistent base of eligibility for all VAMC's would approve those needing access to this critical program, all while preventing fraud and abuse the best VA can.
2. **S. 591:** In May of 2017, The American Legion testified before the U.S. Senate Committee on Veterans' Affairs in support of S. 591, the Military and Veteran Caregiver Services Improvement Act of 2017. This legislation, just as other legislation supported by The Legion, is a great step forward in expanding and improving the PCAFC.
3. **S. 2193:** In December of 2017, Chairman Johnny Isakson introduced the Caring for our Veterans Act, S. 2193. This bill, which was supported by The American Legion and other VSO's, would expand and improve the caregivers program, all while improving care from VA in general. The American Legion was proud to stand in support of this bill while attending and speaking at a press conference in support of the legislation.
4. **Independent Audit:** Lastly, The American Legion is concerned that VA's Caregivers policies were not clearly defined which led to ineligible veterans being enrolled in the program, and eligible veterans being dropped from the program, who were still in need of the services offered through the program. We recommend an independent audit of VA's

Caregivers program to determine what is working or not working and what changes are required to improve the program.

Conclusion

Chairman Roe, Ranking Member Walz and distinguished members of this committee, The American Legion looks forward to working with this committee on how to best improve and expand PCAFC program. The original program received nearly triple the applications than the VA expected, highlighting a real need for veterans to have access to this life altering and lifesaving program. Veterans have a much better quality of life if they are at their home, instead of a VA or private care facility. Veterans prefer to live at home with a caregiver of their choice compared to inpatient care, and statistics have also shown that this route of care is even more fiscally responsible and feasible for the VA.

The American Legion thanks this committee for holding this important hearing and for the opportunity to explain the views of the 2 million veteran members of this organization. For additional information regarding this testimony, please contact Mr. Matthew Shuman, Director of The American Legion's Legislative Division at (202) 861-2700 or Mshuman@legion.org.