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# United States Senate

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April 20, 2022

The Honorable Denis R. McDonough  
Secretary of Veterans Affairs  
810 Vermont Ave NW  
Washington, DC 20420

Dear Secretary McDonough,

We write in support of the recent announcement by the Department of Veterans Affairs (VA) to suspend discharges from the Program of Comprehensive Assistance for Family Caregivers (Caregiver Program) and to urge an expeditious and collaborative initiation of program reforms. However, we urge VA to clarify the terms and timeline of the suspension and the status of current applicants and participants in the program as soon as possible. Many veterans and their caregivers rely on the support this program provides and must be able to plan for the future.

At a recent hearing of the Senate Veterans' Affairs Committee, we again heard from stakeholders about how vital the Caregivers Program is to seriously injured veterans in allowing them to stay in their homes with their loved ones. However, we also heard alarming details about caregivers being discharged from the program for a simple change of address or veterans not being given reasonable medical accommodations during the assessment process. Subsequent to the hearing, VA also released information that an estimated 90 percent of legacy participants were at risk of being discharged from the program – emphasizing the need to suspend discharges and evaluate whether the current program is meeting the needs of veterans and caregivers and meeting congressional intent.

Congress passed the Caregivers and Veterans Omnibus Health Services Act of 2010, to provide comprehensive support to seriously disabled veterans and their caregivers. Congress later expanded the program in the VA MISSION Act of 2018 to veterans of all eras. However, VA subsequently promulgated regulations drastically tightening eligibility criteria far beyond what was required by statute or intended by Congress. In particular, the requirement for assistance with at least one activity of daily living (ADL) each time it is performed is problematic and not what Congress contemplated – had Congress intended this bright line rule it would have included it in the 2018 expansion of the Program.

Regarding ADLs, we are concerned the inability to perform one ADL all of the time is too limiting. For example, some veterans might require assistance with performing multiple ADLs 75 percent of the time, perhaps able to accomplish tasks in some instances but not others due to muscle weakness or lack of conditioning brought on by illness. These veterans may need more assistance than those who cannot independently accomplish one ADL.

We are also concerned with how the Department is implementing other aspects of the “personal care services” requirement. The law is clear that the personal care services requirement can be met by a need for assistance with an ADL or a need for supervision, protection or instruction. However, we continue to hear from caregivers that assessments unfairly place heavy emphasis on the need for assistance with an ADL to meet the personal care service requirement to the detriment of caregivers of veterans who may only require assistance related to supervision, protection, or instruction. VA’s implementation of the personal care service requirement runs counter to Congressional intent and we urge the Administration to review this requirement to ensure that it is fair to all veterans needing assistance.

As you take steps to reform this program to align with Congressional intent and ensure it is meeting the needs for the seriously disabled veterans and caregivers who need its assistance, we encourage you to listen to and incorporate feedback from all stakeholders, and address the following specific areas of concern:

- Make application and appeals processes, as well as eligibility criteria, more transparent and less burdensome for veterans and caregivers;
- Reform the invasive and unnecessary assessment processes and provide more information about decision-making tools and how they are used to evaluate information provided in assessments;
- Align Veterans Health Administration (VHA) and Veterans Benefits Administration (VBA) electronic systems so VA staff have access to the most accurate information related to a veteran’s ratings and medical records;
- Finalize VHA Appeals Modernization Act regulations and determine how to comply with *Beaudette*, which requires the option to appeal to the Board of Veterans’ Appeals;
- Better integrate case management services into the Program;
- Ensure a warm hand-off to other VA services and support for those veterans and caregivers denied or deemed ineligible, including home and community-based services and mental health care support; and
- Provide an easier pathway to advocacy for Veterans Service Organizations and other representatives who help veterans navigate the program.


In addition, we would recommend consideration of some immediate changes to the program including making medical accommodations for veterans during assessments, not requiring veterans to be present when assessing caregivers, and considering feedback from relevant medical specialists. These changes could make an immediate impact on veterans and their caregivers – taking important steps to make the program more user friendly and taking into account the needs of the veterans who need its benefits and services.

Finally, we urge the Administration to be transparent and clear on next steps as it begins needed reform of the Program. Some veterans and caregivers have now received conflicting information from VA – a notice of potential removal from the Program and now news of a pause on that removal. We recommend you work to mitigate any confusion affected individuals may

have given the importance of this Program in their lives and offer mental health services to veterans and caregivers who are in limbo and may be dealing with greater stress than usual.


We appreciate the actions you are taking to improve the Caregiver Program and look forward to continuing to engage with VA and all stakeholders to ensure the program is serving veterans and caregivers as Congress intended.

Sincerely,



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Jon Tester  
Chairman  
Committee on Veterans' Affairs



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Jerry Moran  
Ranking Member  
Committee on Veterans' Affairs