RIN Data

VA **RIN:** 2900-AQ48 **Publication ID:** Fall 2019

Title: Program of Comprehensive Assistance for Family Caregivers Amendments Under the VA MISSION Act of 2018

Abstract:

VA proposes to make several changes to the regulations for the Program of Comprehensive Assistance for Family Caregivers (PCAFC). These changes would be made to comply with the recent enactment of the John S. McCain III, Daniel K. Akaka, and Samuel R. Johnson VA Maintaining Internal Systems and Strengthening Integrated Outside Networks Act of 2018 or the VA MISSION Act of 2018, which made several changes to the PCAFC authorizing statute, 38 U.S.C. 1720G. Section 161 of the VA MISSION Act of 2018 expanded eligibility for PCAFC, established new benefits for primary family caregivers, and made other changes to PFAFC. These changes would be made to ensure successful implementation of section 161 of the VA MISSION Act of 2018.

Agency: Department of Veterans Affairs(VA)

Priority: Economically Significant

RIN Status: Previously published in the Unified Agenda

Agenda Stage of Rulemaking: Proposed Rule Stage

Major: Yes

Unfunded Mandates: No

EO 13771 Designation: Regulatory

CFR Citation: 38 CFR 71.15 38 CFR 71.20 38 CFR 71.25 38 CFR 71.40 38 CFR 71.45

Legal Authority: 38 U.S.C. 501 38 U.S.C. 1720G

Legal Deadline: None

Statement of Need:

The Caregivers and Veterans Omnibus Health Services Act of 2010 (Pub. L. 111-163) established 38 U.S.C. 1720G, which directed the Department of Veterans Affairs (VA) to establish a Program of Comprehensive Assistance for Family Caregivers (PCAFC) and a Program of General Caregiver Support Services (PGCSS). Both programs are managed by the VA's Caregiver Support Program (CSP) Office. On June 06, 2018, the President signed into law the VA Maintaining Systems and Strengthening Integrated Outside Networks (MISSION) Act of 2018 or the VA MISSION Act 2018 (Pub. L. 115-182). The VA MISSION Act of 2018 will fundamentally transform elements of the Department of Veteran Affairs' healthcare system to include expansion of the PCAFC within the Caregiver Support Program (38 U.S.C. 1720G; 38 CFR part 71).

The intent of this rulemaking is to improve PCAFC and to ensure consistency in how PCAFC is administered across VA.

Summary of the Legal Basis:

In preparation for such expansion, VA proposes to revise its regulations that govern the PCAFC, which provide certain medical, travel, training, and stipend benefits to designated family caregivers of certain veterans and servicemembers who were seriously injured in the line of duty on or after September 11, 2001. This rulemaking would update the regulations by: (1) updating the scope of the program specific to residency requirement; (2) revising and creating definitions; (3) expanding the scope of eligibility to all service eras; (4) changing the stipend payment calculation; (5) clarifying the time at which adjustments in stipend payments for Primary Family Caregivers would take effect; (6) requiring annual reassessment of eligibility for the program; (7) revising the process for revocation and discharge from the program and providing for an extension of benefits in certain instances; (8) removing the requirement that monitoring must occur at the eligible Veteran's home; and (9) updating the terminology for monitoring visits and the purpose of such visits.

Alternatives:

VA proposes to specify that only those Veterans residing in a state as defined by 38 U.S.C. 101(20) are eligible to participate in PCAFC. VA also proposes to include new definitions of domestic violence (DV), intimate partner violence (IPV), long-term institutionalization, family caregiver, personal care services, serious injury, financial planning, legal services, joint application, legacy applicant, long term institutionalization, unable to self-sustain in the community, and need for regular or extensive instruction or supervision without which the ability of the individual to function in daily life would be seriously impaired. VA also proposes to revise the definitions of family caregiver, in the best interest of, primary care team, need for supervision or protection based on symptoms or residuals of neurological or other impairment or injury, and serious injury, which will be addressed later in this analysis. VA considered not defining residential eligibility in the current 71.10 and keeping the current regulation. However, by not defining the term State to distinguish the U.S. States and Territories as eligible locations will continue to create confusion to the families that reside outside of the eligible areas.

VA also considered not changing and creating basic terms in the current 71.15 and keeping the current regulation. Defining new terms and changing current terms to reflect current practice and adhere to the laws outline in the MISSION Act of 2018 will provide additional detail that allows VA to increase consistency in implementation across medical centers.

Anticipated Costs and Benefits:

The proposed rulemaking implements sections 161-163 of the MISSION Act of 2018, by expanding the CSP specifically the PCAFC. This program will serve all service era Veterans' family caregivers by providing stipend payments, enhanced respite care, mental health services, benefits travel, and CHAMPVA to those who are eligible.

Additionally, the proposed rulemaking will strengthen consistency and validity within PCAFC by creating standards for eligibility requirements and revising definitions for clarity. PCAFC will be able to address the unique needs of Veterans regardless of service era. PCAFC expansion will require all family caregivers and their Veterans participate in annual reassessments, wellness visits, and engage in all requirements of the program. Family caregivers and their Veterans that may no longer qualify due to improvement of health or those requesting discharge from the program will receive extended benefits. The extended benefits will assist the family caregiver financially while concurrently connecting them to other VA and community resources. VA proposes to revise its regulations that govern PCAFC. This rulemaking would make several improvements to PCAFC and would update the regulations to comply with the recent enactment of the VA MISSION Act of 2018, which made several changes to the program's authorizing statute. The proposed changes would allow PCAFC to address the needs of Veterans of all eras and standardize the current program to focus on Veterans with moderate to severe needs.

Risks:

VA has determined that in addition to benefits, there are both costs and transfers associated with this rulemaking. Some portions of the following analysis rely upon assumptions that may change, due to difficulty predicting how many Veterans are going to elect to participate in the CSP, the severity of their caregiving needs, and for which services they will elect to utilize within and outside of VA. The estimated costs of the proposed revisions to 38 CFR part 71 are $36.3 million in FY 2020 and a total of $260.8 million over 5 years. The estimated transfers of the proposed revisions to 38 CFR part 71 are 76.1million in FY 2020 and a total of $4.4 billion over 5 years. The net budget impact is estimated to be $112.4 million in 2020 and $4.7 billion over 5 years.

Timetable:

Action	Date	FR Cite
NPRM	12/00/2019	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Small Entities Affected: No

Federalism: No

Included in the Regulatory Plan: Yes

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RIN Data Printed in the FR: No

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