

DISCHARGED AND DENIED:

How the VA's Caregiver program may have wrongfully discharged or downgraded the care of thousands of Veterans.

May 2019



Senator Robert P. Casey, Jr. (D-PA), Ranking Member



United States Senate
Special Committee on Aging

KEY FINDINGS

- The Department of Veterans Affairs (VA) failed to anticipate the need among Veterans for the Comprehensive Assistance for Family Caregivers program, which left staff and local offices overwhelmed.
- The VA abruptly discharged thousands of Veterans from the Comprehensive Assistance for Family Caregivers program.
- A lack of clear guidance and transparency resulted in local VA offices moving ahead with discharges without oversight or a clear appeals process for Veterans.

OVERVIEW

We rely on the individuals in our Armed Forces to keep our country safe and free for all. As these brave men and women return home with the wounds of war – visible and invisible – family, friends and neighbors step in with care and support. There are 5.5 million of these hidden heroes – military caregivers who make tremendous personal sacrifices to care for their loved ones.¹ Caregivers do this vital work because they are committed to their loved ones, but the stress of providing care can cause caregivers to miss work, strain family budgets and threaten the health and well-being of the caregiver and the veteran alike.

In recognition of the service that caregivers provide, in 2010 Congress created the Comprehensive Assistance for Family Caregivers program (Caregivers program).² The Caregivers program provides relative caregivers additional resources to help them support the Veteran that they care for every day. One of these resources is a stipend that can be used to offset the costs of caring for a Veteran with a disability who requires assistance with activities of daily living. Each caregiver's stipend is based on the severity of the Veteran's condition, and the VA uses a three tier level system to determine the level of care assistance with three being the highest level of care needed and one being the lowest.

The demand for this program is sky high. At its outset, Veterans and their caregivers signed up for the program in unanticipated numbers.³ The program was designed to accommodate 4,000 to 5,000 caregivers, but grew to nearly 23,000.⁴ While Congress has recently taken action to provide the VA with additional funding for the program, at the

¹ Ramchand, Rajeev, et. al. *Hidden Heroes, America's Military Caregivers*, RAND Corporation (2014) (https://www.rand.org/pubs/research_reports/RR499.html).

² Pub. Law 111-163.

³ *Some VAs Are Dropping Veteran Caregivers From Their Rolls*, NPR (April 5, 2017) (<https://www.npr.org/2017/04/05/522690583/caregivers-for-veterans-dropped-from-va-plan>); Department of Veterans Affairs, Briefing with Senate Staff (March 21, 2019).

⁴ *Some VAs Are Dropping Veteran Caregivers From Their Rolls*, NPR (April 5, 2017) (<https://www.npr.org/2017/04/05/522690583/caregivers-for-veterans-dropped-from-va-plan>).

time, the VA did not have the resources necessary to support the ever growing number of Veteran caregivers interested in admittance to the program.⁵ In the years following the creation of the program, local VA medical centers began discharging Veterans and their caregivers from the program at varying rates and for reasons that were not always adequately conveyed to Veterans or their caregivers. While it is not clear whether these discharges were made due to constraints on resources, what is clear is that individual VA centers made widely different decisions on eligibility for the program.

This report examines how the VA determines eligibility for the Caregiver program and how it failed to establish standard processes for eligibility redeterminations and program discharges, which has resulted in thousands of Veterans and their caregivers being abruptly discharged from the program or receiving reduced support. The report is accompanied by data provided by the VA detailing discharges that occurred between January 2017 and March 2019.

RENEWED PROBLEMS IN VA'S ADMINISTRATION OF THE CAREGIVERS PROGRAM

The Caregiver program is critical to supporting the needs of Veterans who bravely served, and whose service left them in need of daily assistance. Despite two years of repeated calls from Congress to improve the administration of the Caregivers program, there are renewed allegations that Veterans and their caregivers continue to be inappropriately discharged or have their eligibility re-determined with inadequate, unclear, and inconsistent explanation, potentially undermining the health and well-being of Veterans and their families.⁶

In August 2018, the Inspector General for Veterans Affairs (VA OIG) examined discharges that were made from the Caregivers program in 2017 and found significant and pervasive problems with the VA's administration of the Caregivers program.⁷ In addition to finding that eligible Veterans and their caregivers "did not always receive consistent and appropriate access to the Family Caregiver Program," it found that the VA failed to consistently monitor Veterans' care and level of need, such that it was impossible to tell whether 50 percent of discharges from the program were properly made.⁸

⁵ Department of Veterans Affairs, Briefing with Senate Staff (March 21, 2019).

⁶ Letter to David Shulkin, Secretary, Department of Veterans Affairs from Senator Robert P. Casey, Jr. (June 13, 2017); Letter to Robert Wilkie, Secretary, Department of Veterans Affairs from Senator Robert P. Casey, Jr. and Senator Dean Heller (April 24, 2018); Letter to David Shulkin, Secretary, Department of Veterans Affairs from Senator Patty Murray and Senator Jon Tester (April 13, 2017); *VA Still Arbitrarily Cutting Caregivers From Program, Even As It Aims To Expand*, NPR (Dec. 18, 2018) (<https://www.npr.org/2018/12/18/677346997/va-still-arbitrarily-cutting-caregivers-from-program-even-as-it-aims-to-expand>).

⁷ Department of Veterans Affairs, Office of Inspector General, *Program of Comprehensive Assistance for Family Caregivers: Management Improvements Needed* (Aug. 16, 2018) (17-04003-222).

⁸ Department of Veterans Affairs, Office of Inspector General, *Program of Comprehensive Assistance for Family Caregivers: Management Improvements Needed* (Aug. 16, 2018) (17-04003-222).

On December 20, 2018, the VA placed a moratorium on all discharges based on eligibility.⁹ That moratorium remains in place today.¹⁰ When the moratorium was announced, the VA explained that it would also be conducting an internal review to determine how to reform the eligibility determination process in an effort to prevent improper discharges and create a uniform process for evaluating participation in the program.¹¹

FINDINGS

Based on new data provided to Senator Casey, Ranking Member of Special Committee on Aging, Senator Tester, Ranking Member of the Committee on Veteran Affairs, and Senator Murray, Ranking Member of the Health, Education, Labor, and Pensions Committee, the following findings demonstrate that the VA has failed to correct for the abrupt and arbitrary discharges of caregivers that occurred before the moratorium was enacted and that more needs to be done to improve the Caregivers program so that it can adequately and equally meet the needs of Veterans.

- **From October 2016 to December 2018, almost 10,000 Veterans were discharged from the Caregivers program. During this period, there was a 24% increase in the number of Veterans who had their level of assistance changed.** According to VA documents, over 9,600 Veterans were discharged from the Caregivers program between October 2016 and December 2018.¹² At the same time, the VA changed the level of care assistance received by over 2,300 Veterans which represents a 24% increase in changes to the level of care assistance received by Veteran families over two years.¹³ During this two year period, over 4,600 of the discharges were based on the VA finding that the “Veteran [was] No Longer Clinically Eligible.”¹⁴ This finding is based on a review by the VA of the Veteran’s medical records and the care that they are receiving from their caregiver.¹⁵ In light of the Inspector General’s finding that the VA did not keep adequate records monitoring the health and care of Veterans in the Caregivers program, it is possible that many of these discharges could have been made in error.¹⁶

⁹ Letter to Senators Lamar Alexander, Bob Casey, Susan Collins, Johnny Isakson, Patty Murray and Jon Tester from Robert Wilkie, Secretary, Department of Veterans Affairs (May 6, 2019).

¹⁰ Letter to Senators Lamar Alexander, Bob Casey, Susan Collins, Johnny Isakson, Patty Murray and Jon Tester from Robert Wilkie, Secretary, Department of Veterans Affairs (May 6, 2019).

¹¹ Email from Department of Veterans Affairs to Senate Special Committee on Aging Staff (April 17, 2019).

¹² Letter to Senators Lamar Alexander, Bob Casey, Susan Collins, Johnny Isakson, Patty Murray and Jon Tester from Robert Wilkie, Secretary, Department of Veterans Affairs (May 6, 2019).

¹³ Between January 2017 and December 2018, 2,342 Veterans enrolled in the Caregivers program had their tie level changed. These changes could be upgrades or downgrades in the level of care assistance. Letter to Senators Lamar Alexander, Bob Casey, Susan Collins, Johnny Isakson, Patty Murray and Jon Tester from Robert Wilkie, Secretary, Department of Veterans Affairs (May 6, 2019).

¹⁴ Letter to Senators Lamar Alexander, Bob Casey, Susan Collins, Johnny Isakson, Patty Murray and Jon Tester from Robert Wilkie, Secretary, Department of Veterans Affairs (May 6, 2019).

¹⁵ Letter to Senators Lamar Alexander, Bob Casey, Susan Collins, Johnny Isakson, Patty Murray and Jon Tester from Robert Wilkie, Secretary, Department of Veterans Affairs (May 6, 2019).

¹⁶ Department of Veterans Affairs, Office of Inspector General, *Program of Comprehensive Assistance for Family Caregivers: Management Improvements Needed* (Aug. 16, 2018) (17-04003-222).

- **The VA has not reevaluated the cases of caregivers that were discharged since problems were identified in 2017.** While the VA conducted a limited review of discharges in the wake of the 2017 moratorium, that review represented only a fraction of the caregivers that were discharged at the time.¹⁷ Despite calls from Congress, to date, the VA has not proactively reviewed the cases of the vast majority of caregivers who were discharged or had their level of assistance changed since problems with the program were identified in 2017.¹⁸
- **Certain facilities had disproportionately high levels of discharges despite the implementation of the VA's 2017 moratorium.** Across the United States, some VA Medical Centers had disproportionately high rates of caregiver discharges between FY 2017 and FY 2018 that do not correlate with the size of the VA Medical Center or the number of Veterans that the facility serves.¹⁹ Additionally, between FY 2017 and FY 2018, some facilities experienced fluctuations in the number of caregiver discharges.²⁰ One facility even saw a 377% increase in discharges between 2017 and 2018.²¹
- **VA does not adequately track Veteran appeals and denials such that they can consistently evaluate whether they made a discharge in error.** The VA currently employs a decentralized eligibility determination process for the Caregiver program with limited oversight from VA headquarters. While the VA is trying to implement changes to better streamline the eligibility process, these changes have not fully implemented.²² Because “local facilities are responsible for determining initial and ongoing eligibility for the Caregiver program,” and the VA “does not currently track [the] outcome of appeals,”²³ it is possible that some VA centers are consistently making improper eligibility determinations without VA’s knowledge or ability to correct the situation. This lack of appeals data also leaves the VA without the information necessary to determine if an initial eligibility discharge was properly implemented, and how many decisions to discharge are appealed (successfully or unsuccessfully).

¹⁷ Department of Veterans Affairs, Briefing with Senate Staff (March 21, 2019); Email from Department of Veterans Affairs to Senate Special Committee on Aging Staff (April 17, 2019).

¹⁸ Department of Veterans Affairs, Briefing with Senate Staff (March 21, 2019); Letter to Robert Wilkie, Secretary, Department of Veterans Affairs from Senator Robert P. Casey, Jr. and Senator Dean Heller (April 24, 2018).

¹⁹ Letter to Senators Lamar Alexander, Bob Casey, Susan Collins, Johnny Isakson, Patty Murray and Jon Tester from Robert Wilkie, Secretary, Department of Veterans Affairs (May 6, 2019).

²⁰ Letter to Senators Lamar Alexander, Bob Casey, Susan Collins, Johnny Isakson, Patty Murray and Jon Tester from Robert Wilkie, Secretary, Department of Veterans Affairs (May 6, 2019).

²¹ Letter to Senators Lamar Alexander, Bob Casey, Susan Collins, Johnny Isakson, Patty Murray and Jon Tester from Robert Wilkie, Secretary, Department of Veterans Affairs (May 6, 2019).

²² Letter to Senators Lamar Alexander, Bob Casey, Susan Collins, Johnny Isakson, Patty Murray and Jon Tester from Robert Wilkie, Secretary, Department of Veterans Affairs (May 6, 2019); Department of Veterans Affairs, Briefing with Senate Staff (March 21, 2019).

²³ Letter to Senators Lamar Alexander, Bob Casey, Susan Collins, Johnny Isakson, Patty Murray and Jon Tester from Robert Wilkie, Secretary, Department of Veterans Affairs (May 6, 2019).

- **Only 465 employees at the VA oversee the care of 23,000 Veterans in the Caregivers program.** Some VA Medical Centers employ one or two individuals to evaluate the care of Veterans in the Caregivers program. Without intervention to provide additional staffing, this imbalance will only be exacerbated when the program expands to cover additional Veterans and their caregivers.

CONCLUSION AND RECOMMENDATIONS

Following the implementation of the MISSION ACT, a new generation of Veterans will become eligible for the Caregivers program.²⁴ This necessary expansion represents an important step in providing assistance to Veterans, regardless of when they served, and families. In addition to the numerous steps that the VA must take to ensure that the expansion of the Caregivers program is successful, more needs to be done by the VA to review the decisions already made to discharge or change the tier level of Veterans before the moratorium was enacted in December 2018. The VA's failure to re-evaluate these cases has created an unfair situation for Veterans, and creates a dangerous precedent as the program is set to expand.

Our service members put their lives on the line to ensure that America remains the home of the free for all of us. We have a sacred responsibility to ensure that the brave individuals who serve our country, and their families, receive the care and support they deserve. The VA should immediately take the following steps to ensure it is meeting the needs of the Veterans who sacrificed for our country, and their caregivers who sacrificed for their family.

- Establish a standard, transparent, nation-wide eligibility determination process.
- Commit to reevaluate the eligibility of Veterans who were discharged from the program or had a tier change under the new determination process.

²⁴ S. 2372 (115th Cong.).