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May 18, 2021

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

Dear Secretary McDonough,

We write to express concern regarding the number of applications to the Program of Comprehensive Assistance for Family Caregivers (Caregiver Program) being denied by the Department of Veterans Affairs (VA) and the delay in implementing the Phase 2 expansion to veterans of all eras.

As early as 2018, we cautioned VA against considering any modifications to eligibility that would lead to any decrease in benefits provided or number of beneficiaries served. Again in 2019 and 2020, we expressed our concern with VA inappropriately curtailing access to the program. Instead, VA chose to ignore input from veterans, advocates and members of Congress and tighten eligibility in a manner not intended by Congress. Specifically, VA limited eligibility to veterans rated as 70 percent service-connected and above and unable to perform an activity of daily living (ADL) without assistance each time the activity occurs. These limitations were not MISSION-Act driven and were undertaken solely by the previous Administration to limit eligibility for the Caregivers Program. We are concerned the criteria is too stringent and is leaving many worthy applicants out of this life-changing program.

Since the implementation of the expanded program on October 1, 2020, VA has reported receiving more than 70,000 applications for the Caregivers Program. Excluding the 30,000 pending applications, and those that were withdrawn or not completed, VA denied 27,000 applications for an estimated 67.5 percent denial rate. The data shows that the highest percentage of denials were due to the ADL requirement and the 70 percent service-connection requirement. Given VA's recent announcement that it will pursue an appeal in the *Beaudette* case, VA needs to take all measures to ensure that decisions are made correctly the first time and that there is an appropriate avenue for appeals.

Congress expanded the Caregivers Program to veterans of all eras in the VA MISSION Act of 2018. Despite this original mandate to implement Phase 1 expansion by October 2019 and Phase 2 expansion by October 2021, implementation has been delayed so that many veterans and their caregivers must wait until October 2022 before being eligible to apply. We urge this administration to expedite this timeline and allow veterans of all eras to apply as soon as possible.

We know that Phase 1 expansion was recently implemented and appreciate VA's ongoing efforts to inform Congress, veterans and other stakeholders as to the progress being made. We would also appreciate more specifics about denials and appeals for the Caregivers Program including:

Denials

1. How many applications to the Caregivers Program have been received in Fiscal Year 2021?
2. How many applications have been denied due to the 70 percent service-connection requirement?
3. How many applications have been denied due to the ADL requirement?
4. How many applications have been denied by the Initial Assessment?

5. How many applications have been denied by the Centralized Eligibility Assessment Team (CEAT)?
6. What is the total rate of denied applications for the Caregivers Program?
7. How does VA ensure standardization of eligibility determinations during initial assessments?
8. How does VA ensure standardization of eligibility determinations during CEAT assessment?
9. Is there an internal audit process to ensure denials of applications are correctly determined?
10. What follow up does VA provide for those applicants who do not finish their applications in the allotted 90 days?
11. Are applicants able to re-access their applications at a later date to re-apply to the Caregivers Program?
12. How long does it take for VA to make a determination from the time the veteran finishes the application?
13. What types of reasons are determined to be “not in the veteran’s best interest” and what criteria does VA use to make this determination?
14. How does VA determine veterans do not need personal care services from family caregivers as a basis for denial of application?

Appeals

15. What is the process for appeal of a denied application?
16. What is the rate of decisions reversed during appeal?
17. How many caregivers have been dropped from the program in Fiscal Year 2021?
18. What is the appeals process for caregivers who were previously enrolled in the program but were dropped due to a reassessment?
19. What specifics are provided by VA in denial letters to applicants?
20. What specifics are provided by VA as to how applicants can appeal the denial?
21. What specifics will be provided in notification by VA to veterans and caregivers who may now be able to file additional appeals as a result of the *Beaudette* case?


Expansion

22. What staffing, authorities, or other resources are needed by VA to implement Phase 2 of the Caregivers Program expansion in October 2021?

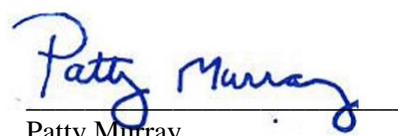
We again urge the VA to reconsider both the ADL and the 70 percent Rule to ensure that caregivers may receive the benefits they deserve. Particularly during the COVID-19 crisis, it is vital that veterans have the opportunity to be cared for in their own home versus an institution. In addition, the current backlog in disability ratings decisions and appeals due to COVID have likely led to claims-related obstacles for entry into the Caregivers program.

We look forward to continuing to work together to ensure an efficient and effective application and appeals process for veterans in the Caregivers Program.

Sincerely,



Jon Tester
United States Senator



Patty Murray
United States Senator