



**8320-01**

**DEPARTMENT OF VETERANS AFFAIRS**

**Notice of Request for Information on the Department of Veterans Affairs  
Program of Comprehensive Assistance for Family Caregivers (PCAFC)**

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Request for information.

**SUMMARY:** The Department of Veterans Affairs (VA) is requesting information regarding its Program of Comprehensive Assistance for Family Caregivers (PCAFC). This notice requests information and comments from interested parties on certain requirements 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 related to PCAFC.

**DATES:** Comments are due by **[INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Written comments may be submitted through <http://www.Regulations.gov>; by mail or hand delivery to the Director, Office of Regulation Policy and Management (00REG), Department of Veterans Affairs, 810 Vermont Avenue NW., Room 1063B, Washington, DC 20420; or by fax to (202) 273-9026 (this is not a toll-free number). Comments should indicate that

they are submitted in response to “Notice of Request for Information on the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers (PCAFC).” Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management (00REG), Department of Veterans Affairs, 810 Vermont Avenue NW., Room 1063B, Washington, DC 20420, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except Federal holidays). Please call (202) 461-4902 for an appointment (this is not a toll-free number). During the comment period, comments may also be viewed online through the Federal Docket Management System at [www.Regulations.gov](http://www.Regulations.gov).

**FOR FURTHER INFORMATION CONTACT:** Margaret Kabat, National Director, Caregiver Support Program (10P4C), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461-6780 (this is not a toll-free number), [Margaret.Kabat@va.gov](mailto:Margaret.Kabat@va.gov).

**SUPPLEMENTARY INFORMATION:**

The Program of Comprehensive Assistance for Family Caregivers (PCAFC) was established by title I of Public Law (P.L.) 111-163, Caregivers and Veterans Omnibus Health Services Act of 2010, and is codified in section 1720G(a) of title 38 of the United States Code (U.S.C.). VA has been administering PCAFC continuously since May 5, 2011, and has implemented this program through its regulations in Part 71 of title 38 of the Code of Federal

Regulations (CFR). Through PCAFC, VA provides family caregivers of eligible veterans and servicemembers (as defined in 38 CFR 71.20) certain benefits, such as training, respite care, counseling, technical support, beneficiary travel (to attend required caregiver training and for an eligible veteran's medical appointments), a monthly stipend payment, and access to health care (if qualified) through the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA) 38 U.S.C. 1720G(a)(3), 38 CFR 71.40. For the purposes of this notice, the term veteran includes servicemembers who apply for or participate in PCAFC.

PCAFC is currently available to family caregivers of eligible veterans who incurred or aggravated a serious injury (including traumatic brain injury, psychological trauma, or other mental disorder) in the line of duty in the active military, naval, or air service on or after September 11, 2001. 38 U.S.C. 1720G(a)(2)(B). On June 6, 2018, 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 ("MISSION Act"), P.L. 115-182, was signed into law. Section 161 of the MISSION Act amended 38 U.S.C. 1720G to expand eligibility for PCAFC to family caregivers of eligible veterans who incurred or aggravated a serious injury in the line of duty before September 11, 2001, establish new benefits for designated primary family caregivers of eligible veterans, and make other changes affecting program eligibility and VA's evaluation of PCAFC applications. The expansion of PCFAC to family caregivers of eligible veterans who incurred

or aggravated a serious injury in the line of duty before September 11, 2001, will occur in two phases, the first of which will begin when VA certifies to Congress that it has fully implemented a required information technology system. During the 2-year period beginning on the date of such certification to Congress, PCAFC will be expanded to include family caregivers of eligible veterans who have 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 before May 7, 1975. Two years after the date of submission of the certification to Congress, PCAFC will be expanded to family caregivers of all eligible veterans who have 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, regardless of when the serious injury occurred.

We are issuing this notice to solicit input on changes to the program required by the MISSION Act, as further explained below. This notice and request for information serves as a means for VA to consult with key stakeholders on how to define and implement changes made to the program by the MISSION Act. After receipt of this information, we will use the information to inform any changes to this program and its implementing regulations.

This notice and request for information has a comment period of 15 days, during which individuals, groups, and entities may reply to the questions presented below. VA believes that 15 days is sufficient to provide comments, as the individuals, groups, and entities interested in this program likely have

information and opinions readily available or can quickly compile and submit such information. Commenters are encouraged to provide complete but concise responses to the questions outlined below. Please note that VA will not respond to comments or other questions regarding policy plans, decisions, or issues regarding this notice. VA may choose to contact individual commenters, and such communications would only serve to further clarify their written comments.

To implement changes to PCAFC consistent with, and pursuant to, the MISSION Act, we are seeking information on the following topics and issues:

*Need for Personal Care Services.*

In addition to expanding PCAFC to eligible veterans who served before September 11, 2001 (subject to the timeline discussed above), section 161 of the MISSION Act amended the eligibility criteria in 38 U.S.C. 1720G to add an additional basis upon which a veteran can be deemed in need of personal care services. Previously, to be eligible for PCAFC, a veteran had to be in need of personal care services because of (1) an inability to perform one or more activities of daily living, (2) a need for supervision or protection based on symptoms or residuals of neurological or other impairment or injury, or (3) such other matters as the Secretary considers appropriate. The MISSION Act amended this section to include “a need for regular or extensive instruction or supervision without which the ability of the veteran to function in daily life would be seriously impaired” as another basis upon which a veteran could be deemed in need of personal care services. See 38 U.S.C. 1720G(a)(2)(C)(iii), as amended by P.L. 115-182, section 161(a)(2).

Relatedly, the MISSION Act also modified the definition of personal care services to include “supervision or protection based on symptoms of residuals of neurological or other impairment or injury,” and “regular or extensive instruction or supervision without which the ability of the veteran to function in daily life would be seriously impaired.” See 38 U.S.C. 1720G(d)(4), as amended by P.L. 115-182, section 161(b). In its regulations, VA has defined “personal care services” as care or assistance of another person necessary to support the eligible veteran’s health and well-being, and perform personal functions required in everyday living ensuring the eligible veteran remains safe from hazards or dangers incident to his or her daily environment. See, 38 CFR 71.15.

VA is seeking public input on how to define this need for regular or extensive instruction or supervision, how to assess whether the veteran’s ability to function in daily life would be seriously impaired, and whether and how to change “personal care services” as defined in VA’s regulations.

#### *Legal and Financial Services.*

The MISSION Act also expands upon the benefits available to each family caregiver designated as the primary provider of personal care services for an eligible veteran to include: (1) financial planning services relating to the needs of injured veterans and their caregivers, and (2) legal services, including legal advice and consultation, relating to the needs of injured veterans and their caregivers. See 38 U.S.C. 1720G(a)(3)(A)(ii)(VI), as amended by P.L. 115-182, section 161(a)(3). VA is seeking public comment on how to define and deliver such additional services.

## Request for Information

Through this notice, we are soliciting information on certain changes made to PCAFC by the MISSION Act. We ask respondents to address the following questions, where possible, in the context of the discussion in this document.

Commenters do not need to address every question and should focus on those that relate to their expertise or perspectives. To the extent possible, please clearly indicate which question(s) you address in your response. As previously mentioned, responses to this request will inform our updates to PCAFC.

Accordingly, we request comments on the following:

1. How should VA define “a need for regular or extensive instruction or supervision” in the new 38 U.S.C. 1720G(a)(2)(C)(iii)?
  - a. Should this be based upon frequency of intervention needed by the veteran or level of complexity of intervention? Should this be based upon the impact to the veteran if such instruction or supervision is not provided? If so, how should this be measured?
  - b. What constitutes “regular” instruction or supervision?
  - c. What constitutes “extensive” instruction or supervision?
2. How does “a need for regular or extensive instruction or supervision without which the ability of the veteran to function in daily life would be seriously impaired” differ from “a need for supervision or protection based on symptoms of residuals of neurological or other impairment or injury?”

- a. How should VA define and assess “a need for supervision or protection based on symptoms of residuals of neurological or other impairment or injury”?
  - b. Are there established standards VA should model?
3. How should VA assess whether the ability of the veteran to function in daily life would be seriously impaired without regular or extensive instruction or supervision?
- a. Are there existing tools or assessments that could be used?
  - b. How should “seriously impaired” be defined?
    - i. For example, should there be a standard of time in which a veteran is expected to be able to function without the need for a caregiver, and once that period of time is exceeded, a need for a caregiver is required due to the impairment of the veteran? Is there a minimum period of time lapse that a veteran should be expected to be able to function and upon exceeding that time, might meet this eligibility criterion?
    - ii. Are there standards that should or could be used to determine when a veteran’s ability to function in daily life is considered seriously impaired without regular or extensive instruction or supervision?
    - iii. How should “ability to function in daily life” be defined?



4. What specific financial planning services relating to the needs of injured veterans and their caregivers should be made available to primary family caregivers under the new 38 U.S.C. 1720G(a)(3)(A)(ii)(VI)(aa)?
  - a. Should entities provide these services for free?
  - b. Are there specific financial planning services that should be excluded?
  - c. How should these services be made available and/or delivered? Should these be provided in person, online, and/or via telephone?
  - d. Should there be a limit as to how many times a primary family caregiver has access to these services? If yes, should it be an annual limit or lifetime limit? Should it be limited by some other measure?
  - e. What types of private organizations provide these services?
    - i. What services do they provide?
    - ii. How are the services provided?
    - iii. Do these organizations provide these services for free?
    - iv. Do these organizations contract with other entities to provide these services? Do these organizations receive grants to provide these services?
  - f. What other Federal/state/local agencies offer these services?
    - i. What services do they provide?
    - ii. How are the services provided?

- iii. Do these agencies provide these services for free?
    - iv. Do these agencies contract with other entities to provide these services? Do these agencies receive grants to provide these services?
- 5. What specific legal services relating to the needs of injured veterans and their caregivers should be made available to primary family caregivers under the new 38 U.S.C. 1720G(a)(3)(A)(ii)(VI)(bb)?
  - a. Should entities provide these services for free?
  - b. Are there specific legal services that should be excluded?
  - c. How should these services be made available? Should these be provided in person, online, and/or via telephone?
  - d. Should there be a limit as to how many times a primary family caregiver has access to these services? If yes, should it be an annual limit or lifetime limit? Should it be limited by some other measure?
  - e. What types of private organizations provide these services?
    - i. What services do they provide?
    - ii. How are the services provided?
    - iii. Do these organizations provide these services for free?
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#### Paperwork Reduction Act

This request for information constitutes a general solicitation of public comments as stated in the implementing regulations of the Paperwork Reduction Act of 1995 at 5 CFR 1320.3(h)(4). Therefore, this request for information does not impose information collection requirements (i.e., reporting, recordkeeping or third-party disclosure requirements). Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### Signing Authority

The Secretary of Veterans Affairs approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Robert L. Wilkie, Secretary, Department of Veterans Affairs, approved this document on November 19, 2018, for publication.

Dated: November 19, 2018.

**Jeffrey M. Martin,**  
*Assistant Director,*  
*Office of Regulation Policy & Management,*  
*Office of the Secretary,*  
*Department of Veterans Affairs.*

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