

**38 CFR Part 71****[Docket No. VA-2020-VHA-0014]****RIN 2900-AQ96****Home Visits in Program of Comprehensive Assistance for Family Caregivers
During COVID-19 National Emergency****AGENCY:** Department of Veterans Affairs.**ACTION:** Final rule; rescission.

SUMMARY: The Department of Veterans Affairs (VA) is removing a regulation that was adopted to provide temporary flexibility under VA's Program of Comprehensive Assistance for Family Caregivers (PCAFC) but is no longer applicable. The regulation relaxed PCAFC requirements for in-person home visits during the national emergency related to Coronavirus Disease-2019 (COVID-19). The removal of this regulation is appropriate because the national emergency related to COVID-19 (COVID-19 National Emergency) has ended and the regulation has no effect.

DATES: This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Colleen Richardson, Executive Director, Caregiver Support Program, Patient Care Services, Veterans Health Administration, (202) 461-5649.

SUPPLEMENTARY INFORMATION:Background*Interim final rule*

In an interim final rule (IFR) published in the Federal Register (FR) on June 5, 2020, VA amended its regulations to relax the PCAFC requirement for in-person home visits during the COVID-19 National Emergency. 85 FR 34522 (June 5, 2020). The IFR

added § 71.60 to part 71 of title 38 of the Code of Federal Regulations (CFR), to provide flexibility in the modality by which VA conducted PCAFC home visits for the duration of the COVID-19 National Emergency declared by the President on March 13, 2020.

Under § 71.60, VA could conduct home visits through means other than in-person visits, including by videoconference or other available telehealth modalities. 85 FR 34523 (June 5, 2020). This change was intended to help reduce the risk of exposure to and transmission of COVID-19 for individuals involved in PCAFC, as well as members of their households and others with whom they came into contact. *Id.* VA considered the goal of reducing the risk of exposure to and transmission of COVID-19 especially important given the vulnerable population of veterans served by PCAFC. *Id.*

End of the COVID-19 National Emergency

When VA adopted § 71.60, VA was focused on the COVID-19 National Emergency and explicitly tied the relaxation of PCAFC in-person home visit requirements to the COVID-19 National Emergency declared by the President on March 13, 2020. However, neither the text of the regulation nor the preamble discussion in the IFR specified whether the declaration referred to Proclamation 9994 of March 13, 2020, Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak (85 FR 15337 (March 18, 2020)), or the President's determination, dated March 13, 2020, pursuant to section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act) (42 U.S.C. 5121-5207), that an emergency exists nationwide. See Letter from President Donald J. Trump on Emergency Determination Under the Stafford Act, available at <https://trumpwhitehouse.archives.gov/briefings-statements/letter-president-donald-j-trump-emergency-determination-stafford-act/> (last accessed September 16, 2025).

Regardless, both national emergencies have ended.¹

Because the COVID-19 National Emergency has ended, the relaxation of in-person home visits that was adopted under the IFR, and valid only during the COVID-19 National Emergency is no longer applicable. Thus, in this final rule, VA is removing the regulation that was adopted under the IFR at 38 CFR 71.60.

VA provided a 30-day comment period in response to the IFR, which ended on July 6, 2020. VA received twelve comments on the IFR and VA has considered and will address the relevant comments as part of this final rule, as discussed in detail below. Notably, the commenters responded to the IFR to identify concerns with or support for § 71.60. Comments were not solicited to determine whether or when to remove § 71.60 from the regulations and none of the commenters addressed the expiration of the COVID-19 National Emergency.

Proposed rule for home visits and emergency declarations

On December 6, 2024, VA published a proposed rule primarily impacting PCAFC that, among other changes, proposed to add a new § 71.55 to part 71 that would, if adopted in a final rule, provide flexibility to VA to complete home visits under part 71 through telehealth for the duration of and in the locations covered by an emergency declaration. 89 FR 97404, at 97449-50 (December 6, 2024). As proposed, § 71.55

¹ See Pub. L. 118–3, dated April 10, 2023, stating that pursuant to section 202 of the National Emergencies Act (50 U.S.C. 1622), the national emergency declared by the finding of the President on Mar. 13, 2020, in Proclamation 9994 (85 FR 15337) was terminated; Congressional Research Service, Closing the Incident Period for the Stafford Act Declaration for the COVID-19 Pandemic, February 10, 2023, available at <https://crsreports.congress.gov/product/pdf/IN/IN12106> (last accessed September 16, 2025) (explaining that “Stafford Act declarations do not have pre-set terms, and generally, federal officials do not unilaterally terminate Stafford Act declarations” but that “[i]nstead, [the Federal Emergency Management Agency (FEMA)] initiates the closeout of an individual declaration only after the closeout of all related individual projects and programs....”); U.S. Department of Homeland Security, FEMA, Following Unprecedented Response to Pandemic, FEMA Announces the Agency Will Close All COVID-19 Disaster Declaration Incident Periods on May 11, available at <https://www.fema.gov/press-release/20230209/following-unprecedented-response-pandemic-fema-announces-agency-will-close> (last accessed September 16, 2025); and 88 FR 8884 (February 10, 2023) (Federal Register Notice by the U.S. Department of Homeland Security and FEMA, providing a 90-day advance notice to government partners and stakeholders regarding the end of eligibility of work and costs reimbursable through public assistance funding on May 11, 2023).

would define “telehealth” by reference to another regulation and explain the meaning of “emergency declaration” for purposes of § 71.55. While related, those proposed changes are outside of the scope of this final rule, which is specific to § 71.60 and the COVID-19 National Emergency, and are not otherwise addressed in this final rule.

Comments

VA reviewed and considered all twelve comments received in response to the IFR. VA determined that six of the twelve comments received were outside the scope of the rulemaking, and VA does not address those comments in this final rule or make changes to § 71.60 based on them. However, some of these commenters raised individual matters (for example, struggles they were having) and, to the extent these individuals provided their personal information, VA did attempt to reach out to the commenters to address their individual matters unrelated to this rulemaking.

Of the remaining six comments within the scope of this rulemaking, one commenter was supportive of virtual home visits by their regular care teams and noted that health and safety is first and foremost. As such, VA does not further address this comment in this final rule and makes no changes based on it.

The remaining comments contained concerns or recommendations relating to the IFR and are addressed below. Certain comments are no longer relevant because § 71.60 is not and cannot be applied after the COVID-19 National Emergency ended.

Concerns regarding VA conducting home visits by modalities other than in-person

Three commenters raised concerns with VA conducting home visits by modalities other than in-person. One commenter stated that certain aspects of evaluation and care of the veteran cannot be best served via telehealth and suggested that VA consider any valid concerns that the caregiver may bring to light and respond accordingly, so that there is no harm to the veteran’s wellbeing and plan for care. Similarly, another commenter stated that in-home visits allow the interviewer to detect stressors, to

visualize the living conditions of the veteran, and to check on the caregiver, which can assist the veteran, caregiver, and VA caregiver coordinator. Another commenter disagreed that relaxing the requirement for in-person home visits during the COVID-19 National Emergency was a valid solution to the issue because in-person home visits make the caregiver's and eligible veteran's needs clear. In addition, this commenter asserted that eliminating in-person home visits could lead to falsified records and they alleged that VA staff added a note (presumably in the eligible veteran's health record) regarding a contact or conversation that never took place.

VA agrees that in-person home visits are generally preferable to videoconferences or other available telehealth modalities because in-person home visits allow VA to fully assess the eligible veteran's situation and the needs of the eligible veteran and caregiver. However, VA believes the risks of relaxing the in-person home visit requirements during the COVID-19 National Emergency were outweighed by the need to reduce the risk of exposure to and transmission of COVID-19 to eligible veterans, the eligible veterans' caregivers and family members, and PCAFC staff.

While there are benefits to performing in-person home visits, videoconferences and other telehealth modalities provide an alternative means to assess an eligible veteran's safety and functional needs when in-person visits are not possible or are unsafe. During the COVID-19 National Emergency, VA had to balance what would be gained by conducting in-person home visits versus the risk of spreading an illness that could be particularly harmful and even deadly in vulnerable populations. Because the risk of and harm associated with spreading COVID-19 was so great, VA authorized videoconferencing and other telehealth modalities through the IFR as appropriate means for conducting PCAFC home visits to support the needs of veterans and caregivers applying for or participating in PCAFC while helping to protect their health and that of VA employees.

During the COVID-19 National Emergency, VA continued to assess the situation and needs of eligible veterans and family caregivers during regular monitoring and wellness contacts under § 71.40(b)(2), even when they were not conducted through in-person home visits. During the COVID-19 National Emergency, the IFR provided VA with flexibility to complete monitoring and wellness contacts through videoconference or other available telehealth modalities. See 38 CFR 71.40(b)(2) (2020) and (2021); 38 CFR 71.60.

As currently set forth in 38 CFR 71.40(b)(2), each wellness contact consists of a review of the eligible veteran's well-being, adequacy of personal care services being provided by the family caregiver(s), and the well-being of the family caregiver(s). These wellness contacts provide eligible veterans and family caregivers participating in PCAFC an opportunity to share concerns with VA staff and provide VA staff with an opportunity to see how eligible veterans and family caregivers are managing at home. Wellness contacts help VA determine whether any additional instruction, preparation, training, and/or technical support is needed for the eligible veteran's needs to be met by the family caregiver. As a result, facility Caregiver Support Program (CSP) staff may provide instruction or training or ensure appropriate referrals are in place for the family caregiver to obtain this support. In this way, wellness contacts reduce the risk that significant changes in the safety or well-being of PCAFC participants would go undetected.

Further, throughout the COVID-19 National Emergency, VA continued to encourage caregivers and eligible veterans to promptly notify VA staff of any concerns so that appropriate and necessary actions, including in-person home visits, when necessary, could be taken by VA to address such concerns. VA also encouraged and continues to encourage family caregivers and eligible veterans alike to reach out specifically to CSP staff and the Caregiver Support Line as needed, as both resources

can assist in mitigating concerns, provide opportunities to raise questions, identify and address stressors, and assess the needs of the family caregiver as well as the needs of the eligible veteran. If CSP staff determined an in-person home visit was necessary during the COVID-19 National Emergency, they were supported in conducting the in-person home visit.

VA disagrees with one commenter's assertion that VA was eliminating in-person home visits and doing so could lead to more falsified records. First, the IFR provided additional flexibility to VA to complete home visits through videoconference or other available telehealth modalities, but it did not eliminate the in-person home visit requirements. The regulation adopted under the IFR states that during the COVID-19 National Emergency, VA may complete visits to the eligible veteran's home under part 71 through videoconference or other available telehealth modalities. Under § 71.60, VA was not prohibited from completing in-person home visits during the COVID-19 National Emergency.

Second, VA does not believe § 71.60 affected the likelihood of records being falsified. Errors or mistakes in records could result from a provider writing inaccurate notes or the veteran or family caregiver providing inaccurate information, but neither of these was likely to increase because of the flexibility provided under § 71.60. Falsified records due to staff error are already minimal, and if identified, there are processes in place for corrections to be made to such records. Additionally, a veteran can review their health record and report anything they believe to be inaccurate. This applies to any information within the record, including but not limited to documentation resulting from both in-person and virtual visits for purposes of PCAFC. VA has resumed in-person home visits and has not identified evidence to suggest the relaxation of in-person home visits under the IFR led to falsification of records.

Suggestion to provide options for remote home visits

One commenter applauded VA for exercising flexibility in conducting home visits during the COVID-19 National Emergency, but urged VA to provide necessary education, training, and resources to facilitate remote home visits. In particular, the commenter suggested VA provide education and resources for accessing equipment and internet infrastructure, or the option to use telephones for families lacking reliable internet connectivity and web technologies.

Throughout the COVID-19 National Emergency, VA provided education, training, and resources to assist eligible veterans and their family caregivers with accessing VA services and supports for which they may be eligible, and continues to do so today. For example, CSP staff are trained on how to enter a Digital Divide Consult to assist in connecting eligible veterans and their family caregivers to VA staff who can determine eligibility for VA-provided connected devices, along with the training needed to use such equipment.

Comment regarding consistency in conducting remote visits and establishing standards and training for VA staff

That same commenter further urged VA to establish consistency across VA medical facilities in conducting remote visits to safeguard the health of veterans and caregivers, and further encouraged VA to establish standards and training to help VA continue to provide effective support and assessment during remote visits, particularly in instances where individuals may not feel comfortable disclosing abuse virtually or via phone.

VA provides robust and standardized training to CSP staff across the country, including training on the completion of home visits. Following publication of the IFR, this included training related to the relaxation of in-person home visits during the COVID-19 National Emergency. During trainings, VA reiterates that part of the benefit of the home visit is to provide an opportunity to identify additional needs of and/or supports for

individuals applying for or participating in PCAFC, whether the visit is in-person or virtual.

VA acknowledges that disclosure of abuse in any circumstance may be difficult. VA conducts wellness contacts and eligibility assessments using standardized processes to enhance consistency in the administration of PCAFC. Whether in-person or virtual, these processes include providing one-on-one opportunities for caregivers and eligible veterans to individually disclose abuse to a VA provider. Additionally, CSP collaborates extensively with the Veterans Health Administration's Intimate Partner Violence Assistance Program to provide staff with consultation, training, and resources on assessing for safety during in-person and virtual visits, including how to recognize non-verbal signs and symptoms of abuse in situations where individuals do not verbally disclose abuse.

Recommendation for permanent relaxation of in-person home visits

One commenter recommended that the relaxation of requirements for in-person home visits become permanent because they are unnecessary, intrusive, and costly. The commenter further stated that the in-person home visit requirement makes veterans residing overseas and in some U.S. territories ineligible for PCAFC. This commenter also stated that they previously asked that telehealth and related technology be utilized for all visit or follow-up requirements for PCAFC.

To the extent that this commenter is asserting that PCAFC should be available to individuals living overseas, VA considers that part of the comment outside the scope of this rulemaking. Pursuant to § 71.10(b), benefits under part 71 are provided only to individuals residing in a State as that term is defined in 38 U.S.C. 101(20). Section 101(20) defines the term State, in part, as each of the several States, Territories, and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico. VA discusses this requirement in more detail in the proposed rule

published on March 6, 2020 (see 85 FR 13356, at 13358 (March 6, 2020)) and in the final rule published on July 31, 2020 (see 85 FR 46226, at 46226-27 (July 31, 2020)).

Regarding the commenter's suggestion that telehealth and related technology should be utilized for all PCAFC visits and follow ups, VA disagrees. As VA explained in the IFR and previously in this final rule, during the COVID-19 National Emergency, VA believed the risks of exposure to and transmission of COVID-19 necessitated the flexibility allowed by 38 CFR 71.60. See 85 FR 34523 (June 5, 2020). However, VA does not intend to permanently eliminate the requirement for in-person home visits because there are numerous benefits to performing home visits in person when it is safe to do so. In-person home visits are beneficial for assessing and reassessing eligibility for PCAFC and conducting wellness contacts, particularly as eligibility for PCAFC is conditioned upon the eligible veteran receiving care at home. See § 71.20(a)(6). Conducting visits in the eligible veteran's home provides VA with a better opportunity than virtual visits to assess and reassess the eligible veteran's level of need and the caregiver's ability to perform personal care services. To assess the ability of the caregiver to perform personal care services in the eligible veteran's home, it is most ideal for the assessor to be present in the environment in which the care is being performed. While a virtual visit may be appropriate in certain instances, current technology does not allow the assessor full environmental awareness of factors or conditions which may also be present yet not viewable through virtual modalities available today. Further, in-person home visits provide a unique opportunity for VA to conduct more comprehensive and holistic assessments that virtual visits may not afford. In-person home visits also provide a better opportunity than virtual visits for PCAFC participants and VA staff to develop personal and on-going relationships in which eligible veterans and caregivers are comfortable discussing the eligible veteran's needs and health status with VA staff, which may be utilized by VA to provide additional

supports and services. Additionally, information about an individual's safety and environment is more easily assessed in person.

In-person home visits are an important component of participation in PCAFC. Pursuant to 38 U.S.C. 1720G(a)(9), VA has an obligation to monitor the well-being of each eligible veteran receiving personal care services under PCAFC, document findings pertinent to the appropriate delivery of personal care services to the eligible veteran under PCAFC, and establish procedures to ensure appropriate follow-up regarding those findings, which may include visiting the eligible veteran's home to review directly the quality of personal care services provided to the eligible veteran. Given their importance, VA budgeted for the expenses associated with conducting in-person home visits as part of the overall operational costs associated with PCAFC.

Thus, VA does not agree with the commenter that the relaxation of in-person home visits should become permanent. As previously explained in this rulemaking, in-person home visits are critically important and are an integral part of PCAFC. In-person home visits provide significant benefits to veterans and caregivers when they can be conducted safely and when the benefits outweigh any risks.

Lack of timely information from VA

One commenter indicated they became aware of the IFR on the last day to provide comments and expressed concern that many caregivers do not receive timely emails, phone calls, or information from VA. VA provided a 30-day public comment period in response to the IFR, which was available for public viewing at www.regulations.gov. While VA considers this comment outside the scope of this final rule, VA is confirming that CSP does communicate news and updates about PCAFC, including matters related to rulemakings, through a variety of platforms, including, but not limited to, press releases, website updates, and messages via listserv.

VA makes no changes to the final rule in response to the public comments

received in response to the IFR. However, as noted earlier in this discussion, VA is removing 38 CFR 71.60 now because the COVID-19 National Emergency is over, and § 71.60 is no longer operable.

Administrative Procedure Act

VA has considered all relevant input and information contained in the comments submitted in response to the IFR. 85 FR 34522 (June 5, 2020). However, § 71.60, as added by the IFR, was only effective for the duration of the COVID-19 National Emergency, which has ended. VA has decided to remove § 71.60 from VA regulations because it no longer applies.

Although this final rule differs from the IFR, the change is a logical outgrowth of the IFR. Section 71.60 is inherently and explicitly limited to the duration of the COVID-19 National Emergency, such that the duration of its effect was clear. The public could have reasonably anticipated that the IFR would no longer be effective after the COVID-19 National Emergency, and that it would no longer be relevant or needed in part 71 after the COVID-19 National Emergency. Therefore, removing § 71.60 from part 71 is a logical outgrowth of the IFR and does not require further notice and public procedure under 5 U.S.C. 553(b).

Additionally, VA finds there is good cause to publish this final rule with an immediate effective date and forego the 30-day delayed effective date generally required by 5 U.S.C. 553(d). This is because a delayed effective date for this final rule is unnecessary, as it removes a regulatory provision already rendered inoperable due to the end of the COVID-19 National Emergency. As this rule results in no change to existing practice and would have no effect, the Secretary of Veterans Affairs finds that there is good cause under 5 U.S.C. 553(d)(3) to forego the 30-day delay requirement.

Executive Orders 12866, 13563, and 14094

VA examined the impact of this rulemaking as required by Executive Orders 12866 (Sept. 30, 1993) and 13563 (Jan. 18, 2011), which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. The Office of Information and Regulatory Affairs has determined that this rulemaking is not a significant regulatory action under Executive Order 12866, as supplemented by Executive Order 13563. This final rule is a deregulatory action under Executive Order 14192 because it removes a regulation that no longer has effect.

Economic Impact: There are no transfers, costs, or cost savings associated with this rulemaking.

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (5 U.S.C. 601-612). This certification is based on the fact that this final rule pertains only to how VA previously conducted PCAFC home visits during the COVID-19 National Emergency and has no current or future impact on small businesses. Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

Unfunded Mandates

This final rule will not result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year.

Paperwork Reduction Act

This final rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3521).

List of Subjects in 38 CFR Part 71

Administrative practice and procedure, Claims, Health care, Health facilities, Health professions, Mental health programs, Public assistance programs, Travel and transportation expenses, Veterans.

SIGNING AUTHORITY

Douglas A. Collins, Secretary of Veterans Affairs, approved this document on 2/10/2026 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.

Nicole R. Cherry,

Alternate Federal Register Liaison Officer, Department of Veterans Affairs.

For the reasons stated in the preamble, the Department of Veterans Affairs amends 38 CFR part 71 as set forth below:

PART 71—CAREGIVERS BENEFITS AND CERTAIN MEDICAL BENEFITS OFFERED TO FAMILY MEMBERS OF VETERANS

1. The authority citation for part 71 continues to read as follows:

Authority: 38 U.S.C. 501, 1720G, unless otherwise noted.

§ 71.60 [Removed]

2. Remove § 71.60.