



a program of United Spinal Association

Written Testimony

of

VetsFirst, a program of United Spinal Association

Submitted by

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Before the

**Subcommittee on Health
Committee on Veterans' Affairs
United States House of Representatives**

Regarding

**The Department of Veterans Affairs' Implementation Plan for the
Caregiver Assistance Program Established in Title I of
Public Law 111-163**

March 11, 2011



Chairwoman Buerkle, Ranking Member Michaud, and other distinguished members of the committee, thank you for the opportunity to submit for the record our concerns about the Department of Veterans Affairs' (VA) implementation of the caregiver assistance program established in Title I of Public Law 111-163.

VetsFirst represents the culmination of 60 years of service to veterans and their families. United Spinal Association, through its veterans service program, VetsFirst, maintains a nationwide network of veterans service officers who provide representation for veterans, their dependents and survivors in their pursuit of VA benefits and health care before the VA and in the federal courts. Today, United Spinal Association is not only a VA-recognized national veterans service organization, but is also the leader in advocacy for all people with disabilities.

VetsFirst fully supports the caregiver services that were included in the Caregivers and Veterans Omnibus Health Services Act of 2010 (Public Law 111-163). VetsFirst believes that caregivers are vital to ensuring that veterans with disabilities are able to be independent. Under Public Law 111-163, caregivers for all eligible veterans who are enrolled in the VA's health care system will have access to education sessions, support services, counseling, mental health services, and respite care. The law also provides certain caregivers of veterans who have a serious injury, such as a traumatic brain injury, that was incurred or aggravated in the line of duty on or after September 11, 2001, with a monthly stipend and access to medical care.

For the family members of veterans with disabilities, the battle to ensure that their loved ones receive the supports and services that they need to reintegrate into their families and communities never ends. In order to ensure that veterans with disabilities are able to receive the care they need, VetsFirst believes that our nation must fully support the dedicated caregivers of our nation's veterans.

Many families of veterans with disabilities play a crucial role in providing needed services and supports that allow veterans to return to, and remain in, their homes. The sacrifice of family caregivers not only supports veterans, but also supports the VA in its mission. These individuals often endure significant life changes as they seek to assist their husbands, wives, and adult children in their efforts to rehabilitate and reintegrate into their communities.

In the aftermath of a veteran receiving a severe injury and resulting long-term disability, many family caregivers are forced to either quit their jobs or seek flexible employment in order to care for their loved ones. As a result, many caregivers must balance the strains of caregiving for someone who has significant disabilities with lost income and cancellation of employer-provided health care coverage and other benefits. The longer-term impacts on leaving the traditional workforce include the loss of retirement benefits, which may lead to financial shortfalls as the caregiver ages.

Although the commitment of the caregivers of our nation's veterans has been evident for many decades, a study released in November 2010 by the National Alliance for Caregiving provides statistical evidence supporting the depth of the commitment that these caregivers have made to our veterans. For instance, the study report titled, "Caregivers of Veterans—Serving on the Homefront," noted that 70 percent of caregivers for our nation's veterans are spouses. For all populations, only 6 percent of caregivers are spouses. Clearly, immediate family members have an important role in caregiving for our nation's veterans.

An even higher number of caregivers, 80 percent, live with the veteran for whom they are providing care. Nationwide, only 23 percent of caregivers of all adults live with the care receiver. Consequently, 68 percent of caregivers of veterans report a high level of emotional stress due to caregiving which is more than double the level of stress endured by caregivers of all adults.

The lifelong commitment made by caregivers of our nation's veterans is clearly represented by the 26 percent of parents who are providing care for their sons and daughters who are veterans of Operation Iraqi Freedom or Operation Enduring Freedom (Afghanistan). The long-term caregiving relationship of our nation's veterans with disabilities and their caregivers exceeds that of other caregiving relationships. According to the National Alliance for Caregiving, 30 percent of caregivers of veterans from all eras give care for 10 years or longer, as opposed to only 15 percent of caregivers nationwide.

Intensive caregiving provides many challenges for caregivers. Some of the challenges identified by the study include lack of awareness about helpful VA services, lack of information about how to receive financial assistance, and lack of knowledge regarding the medical aspects of the veteran's disability. Of note, the resource for most caregivers for the services and supports available to them as caregivers was through "word of mouth."

To address some of the identified issues, the report makes seven specific recommendations. Those recommendations included the following: harnessing the "word of mouth" by providing caregivers with avenues to learn from each other, assisting caregivers with finding needed respite services, and making training and information about conditions such as post-traumatic stress disorder more accessible to caregivers.

The expansive services provided through Title I of Public Law 111-163 provided hope for many caregivers who as the National Alliance for Caregiving study demonstrates provide care for a longer period of time and have a higher stress level than other types of caregivers. As established by Congress, the caregiver programs discussed in Title I directly address some of the key areas of concern for many caregivers. The law provides caregivers for all eligible veterans enrolled in the VA's health care system with general supports. The law also includes a more comprehensive program of assistance for family caregivers of veterans who have a serious injury, such as a traumatic brain injury, that was incurred or aggravated in the line of duty on or after September 11, 2001.

In order to receive assistance under the program of comprehensive assistance for family caregivers, a caregiver must be providing care to an “eligible veteran.” According to 38 U.S.C. § 1720G(a)(1)(B)(2),

[A]n eligible veteran is any individual who (A) is a veteran or member of the Armed Forces undergoing medical discharge from the Armed Forces; (B) has 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 after September 11, 2001; and (C) is in need of personal care services because of (i) an inability to perform one or more activities of daily living; (ii) a need for supervision or protection based on symptoms or residuals of neurological or other impairment or injury; or (iii) such other matters as the Secretary considers appropriate.

Under the comprehensive program, family caregivers are eligible to receive training, technical support, counseling, and lodging and subsistence. For the family caregiver who is chosen as the primary provider of personal care services additional benefits are available. These benefits include mental health services, respite care of not less than 30 days annually, medical care, and a monthly personal caregiver stipend. As identified by the National Alliance for Caregiving, these benefits will be extremely beneficial to the caregivers of eligible veterans.

Unfortunately, the caregiver program implementation plan released by VA in February 2011 fails to provide the promised benefits that many caregivers believed would be available to them. VA’s implementation plan, which focuses on the comprehensive caregiver program, seeks to place limits on eligible veterans beyond those intended by Congress. Specifically, VA appears to rely on 38 U.S.C. § 1720G(a)(1)(B), which allows the Secretary to provide support “to a family caregiver of an eligible veteran if the Secretary determines it is in the best interest of the eligible veteran to do so,” to add seven clinical eligibility criteria.

The cumulative result of these clinical criteria, however, is to limit the number of eligible veterans and thus family caregivers who can benefit from this comprehensive program beyond that intended by Congress. One of the clinical criterion states that, “Without caregiver support providing personal care services at home in an ongoing manner, would require hospitalization, nursing home, or other institutional care.” Another clinical criterion states that the veteran must “Require continuing medical management or be at high risk for personal safety and cannot live independently in the community without caregiver support.” Based on the “eligible veteran” criteria outlined in the law, Congress did not intend for VA to place these types of strictures on eligibility.

In the proposed implementation plan, VA also imposed specific aspects of these clinical criteria into its definition of “serious injury.” In the law, Congress noted only certain types of injuries,

such as traumatic brain injury, psychological trauma, or other mental disorder, in its explanation of this term. The VA defines serious injury as follows: “Individuals with a serious injury are individuals who, due to their injury, psychological trauma, or mental disorder, require ongoing medical care, exhibit impaired ability to function independently in their community, are vulnerable and at high risk for personal safety, and for whom at least 6 months of continuous and approved caregiver support is required to enable them to live outside of an institutional care setting.” Based on congressional intent, VetsFirst believes that VA’s definition of serious injury incorporates restrictions on eligibility beyond those intended by the law.

If the VA is allowed to move forward with the outlined implementation plan, the number of eligible family caregivers providing needed services and supports for veterans with serious injuries due to their service will be limited to less than one-third the number Congress intended would be eligible for the program. Furthermore, veterans with certain types of injuries that are specifically stated in the law may be left out due to the development of overly stringent criteria.

Aside from congressional intent, expansion of caregiver programs to veterans who are not eligible for an institutional level of care but for whom caregiving is likely to extend their ability to live in the community is extremely effective in the long-term. Specifically, delaying or preventing institutional placements through quality caregiving not only fulfills the desire of many individuals to remain in their homes but also saves money due to decreased utilization of institutional placements. Thus, VA must not unnecessarily limit the comprehensive caregiver program due to fears that the program will be too costly.

In addition, VA must ensure that the process veterans with disabilities and their family caregivers must follow to participate in the comprehensive caregiver program is not overly bureaucratic. Instead, the process should be veteran-centered with the goal of helping eligible family caregivers to complete the process in a timely, successful manner.

In order to ensure that the role of the family caregiver and the needs of the veteran are at the center of the process, VetsFirst believes that VA must ensure that the caregiver education and training outlined in the implementation plan recognizes the different skill sets and educational backgrounds of the caregivers. As outlined by VA, the caregiver education and training component will be divided into two sections. The first section provides general training on caregiving through a variety of educational methods (self-study, DVD, classroom, online). VetsFirst believes that this training should also include aspects that can speak to those who have attained knowledge through other caregiver training and those who have learned through the process of actually providing care to their loved one. If the goal of training is to develop the caregiving skills of family caregivers, then it must meet the caregiver’s level of knowledge and experience.

Although caregivers must be approved and receive adequate training, VetsFirst hopes that VA will make every effort to ensure that the process of final certification is expeditious. Many family caregivers have waited through great personal difficulty for the types of benefits available through

the comprehensive caregiver program. VA must ensure that the certification process is conducted in a manner that encourages eligible veterans with disabilities and their family caregivers to participate in and receive the benefits of this critical program.

Finally, VA must not limit eligibility beyond that which Congress intended due to fears about the consequences if the program is later expanded for caregivers of veterans of all eras. Based on the need outlined in the study by the National Alliance for Caregiving, VetsFirst will continue to advocate for increased services and supports for caregivers of veterans of all eras to make sure that these caregivers can continue to support our nation's veterans with disabilities. Specifically, VetsFirst believes that these benefits must be able to not only veterans with service-connected disabilities of all eras but also veterans who receive VA health care services due to a catastrophic disability acquired outside the veteran's service. Otherwise, unnecessary inequality in the system of health care benefits may result.

VetsFirst believes that veterans with disabilities have the right to receive their services and supports in the least restrictive environment. Most people with disabilities want to live in their homes and have the opportunity to be a part of their communities. Although funding services for caregivers requires an upfront investment, the long-term gains that result from assisting veterans with disabilities in their efforts to reintegrate into their communities are significant.

Thank you for the opportunity to submit for the record VetsFirst's concerns with VA's implementation plan for the comprehensive caregiver program. We appreciate your leadership on behalf of our nation's veterans with disabilities and their families and survivors. VetsFirst stands ready to work in partnership to ensure that all veterans are able to reintegrate in to their communities and remain valued, contributing members of society.

Information Required by Clause 2(g) of Rule XI of the House of Representatives

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This testimony is being submitted on behalf of VetsFirst, a program of United Spinal Association.

United Spinal Association has not received any federal contracts or grants, other than the routine use of office space and associated resources in VA Regional Offices for Veterans Services Officers, in the current or previous two fiscal years.

Heather L. Ansley

Heather L. Ansley is the Director of Veterans Policy for VetsFirst, which is a program of United Spinal Association. Ms. Ansley began her tenure with the organization in December 2009. She is responsible for developing and advocating for the public policy priorities of VetsFirst and promoting collaboration between disability organizations and veterans service organizations. She also serves as a co-chair of the Consortium for Citizens with Disabilities Veterans Task Force.

Prior to her arrival at VetsFirst, she served as the Director of Policy and Advocacy for the Lutheran Services in America Disability Network.

Before arriving in Washington, D.C., she served as a Research Attorney for The Honorable Steve Leben with the Kansas Court of Appeals. Prior to attending law school, she worked in the office of former U.S. Representative Kenny Hulshof (R-MO) where she assisted constituents with problems involving federal agencies. She also served as the congressional and intergovernmental affairs specialist at the Federal Emergency Management Agency's Region VII office in Kansas City, Missouri.

Ms. Ansley is a Phi Beta Kappa graduate of the University of Missouri-Columbia with a Bachelor of Arts in Political Science. Ms. Ansley also holds a Master of Social Work from the University of Missouri-Columbia and a Juris Doctorate from the Washburn University School of Law in Kansas.

She is licensed to practice law in the State of Kansas and before the United States District Court of Kansas.

Ms. Ansley lives in Falls Church, Virginia, with her husband, Jonathan.