

Department of Veterans Affairs

§ 71.45

(vi) Stipend payments for the first month will be adjusted based on the number of days remaining in the month. Stipend payments will also be prorated where a Primary Family Caregiver's status is revoked and/or a new Primary Family Caregiver is designated prior to the end of a month. See § 71.45, Revocation.

(vii) Nothing in this section shall be construed to create an employment relationship between the Secretary and an individual in receipt of assistance or support under this part.

(d) *Effective date and payment date of benefits*—(1) *Effective date.* Caregiver benefits are effective as of the date that the signed joint application is received by VA or the date on which the eligible veteran begins receiving care at home, whichever is later. However, benefits will not be provided until the individual is designated as a Family Caregiver. Individuals who apply to be Family Caregivers must complete all necessary education, instruction, and training so that VA can complete the designation process no later than 30 days after the date that the joint application was submitted or, if the application has been placed on hold for a GAF assessment, 30 days after the hold has been lifted, or a new joint application will be required to serve as the date of application for payment purposes.

(2) *Payment date.* The stipend is paid monthly for personal care services that the Primary Family Caregiver provided in the prior month. Benefits due prior to such designation, based on the date of application, will be paid retroactive to the date that the joint application is received by VA or the date on which the eligible veteran begins receiving care at home, whichever is later.

(Authority: 38 U.S.C. 111(e), 501, 1720B, 1720G, 1782)

§ 71.45 Revocation.

(a) *Revocation by the Family Caregiver.* The Family Caregiver may request a revocation of caregiver status in writing and provide the present or future date of revocation. All caregiver benefits will continue to be provided to the Family Caregiver until the date of revocation. VA will, if requested and applicable, assist the Family Caregiver in

transitioning to alternative health care coverage and with mental health services.

(b) *Revocation by the veteran, servicemember, or surrogate.* The veteran, servicemember, or the eligible veteran's surrogate may initiate revocation of a Primary or Secondary Family Caregiver.

(1) The revocation request must be in writing and must express an intent to remove the Family Caregiver.

(2) VA will notify the Family Caregiver verbally and in writing of the request for removal.

(3) VA will review the request for revocation and determine whether there is a possibility for remediation. This review will take no longer than 30 days. During such review, the veteran, servicemember, or surrogate may rescind the request for revocation. If VA suspects that the safety of the eligible veteran is at risk, then VA may suspend the caregiver's responsibilities, and remove the eligible veteran from the home if requested by the eligible veteran, prior to making a formal revocation.

(4) Caregiver benefits will continue for 30 days after the date of revocation, and VA will, if requested by the Family Caregiver, assist the individual with transitioning to alternative health care coverage and with mental health services, unless one of the following is true, in which case benefit will terminate immediately:

(i) VA determines that the Family Caregiver committed fraud or abuse or neglect of the eligible veteran.

(ii) If the revoked individual was the Primary Family Caregiver, and another Primary Family Caregiver is assigned within 30 days after the date of revocation.

(iii) If another individual is assigned to be a Family Caregiver within 30 days after the date of revocation, such that there are three Family Caregivers assigned to the eligible veteran.

(iv) The revoked individual had been living with the eligible veteran and moves out, or the revoked individual abandons or terminates his or her relationship with the eligible veteran.

(c) *Revocation by VA.* VA may immediately revoke the designation of a

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Family Caregiver if the eligible veteran or individual designated as a Family Caregiver no longer meets the requirements of this part, or if VA makes the clinical determination that having the Family Caregiver is no longer in the best interest of the eligible veteran. VA will, if requested by the Family Caregiver, assist him or her in transitioning to alternative health care coverage and with mental health services. If revocation is due to improvement in the eligible veteran's condition, death, or permanent institutionalization, the Family Caregiver will continue to receive caregiver benefits for 90 days, unless any of the conditions described in paragraph (b)(4)(i) through (iv) of this section apply, in which case benefits will terminate immediately. In addition, bereavement counseling may be available under 38 U.S.C. 1783. If VA suspects that the safety of the eligible veteran is at risk, then VA may suspend the caregiver's responsibilities, and remove the eligible veteran from the home if requested by the eligible veteran or take other appropriate action to ensure the welfare of the eligible veteran, prior to making a formal revocation.

(Authority: 38 U.S.C. 501, 1720G)

§ 71.50 Provision of certain counseling, training, and mental health services to certain family members of veterans.

(a) *Benefits provided under this section.* VA will provide consultation, professional counseling, marriage and family counseling, training, and mental health services to a family member when necessary in connection with the treatment of a disability for which the veteran is receiving treatment through VA. For the purposes of this section, provision of a benefit is "in connection with the treatment" of a veteran's disability if, in the clinical judgment of a VA medical professional who is providing treatment to the veteran, the provision of the benefit to the family member would further the objectives of the veteran's medical treatment plan. The listed benefits provided under this section are to be provided within the following guidelines:

(1) All benefits will consist of psychotherapy, counseling, training, or edu-

cation; VA will not provide prescriptions or medications to family members. VA also will not provide inpatient services under this section.

(2) This section does not authorize the provision of clinical evaluation or treatment that is not necessary in connection with the veteran's treatment or that involves treatment other than consultation, professional counseling, marriage and family counseling, training, and mental health services.

(3) Marriage and family counseling includes services to help the veteran address mental health issues, manage physical health problems, and strengthen environmental supports as specified in the veteran's treatment plan. It also includes interventions to reduce the negative impact for the veteran of mental illnesses or other medical conditions in family members.

(b) *Definition of family member.* For the purpose of this section, which provides certain benefits and services to eligible family members, a family member is:

(1) A person related to the veteran by birth or marriage who lives with the veteran or has regular personal contact with the veteran;

(2) The veteran's legal guardian or surrogate;

(3) A Primary or Secondary Family Caregiver or a General Caregiver; or

(4) The individual in whose household the veteran has certified an intention to live.

(c) *Family members or caregivers who need treatment not related to the treatment of the veteran.* Where a VA clinician believes that medical care or services are needed for a family member but cannot provide benefits under this section because such need is not necessary in connection with the treatment of the veteran, VA may refer such family member to an appropriate provider in the community, so that the family member may obtain care through other health coverage including care to which a Primary or Secondary Family Caregiver may be eligible under this part.

(Authority: 38 U.S.C. 1720G, 1782)