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will not be simultaneously and regularly provided by or through another individual or entity.

(6) The individual receives care at home or will do so if VA designates a Family Caregiver.

(7) The individual receives ongoing care from a primary care team or will do so if VA designates a Family Caregiver.

(b) For five years beginning on October 1, 2020, a veteran or servicemember is eligible for a Primary or Secondary Family Caregiver under this part if he or she is a legacy participant.

(c) For five years beginning on October 1, 2020, a veteran or servicemember is eligible for a Primary or Secondary Family Caregiver under this part if he or she is a legacy applicant.

[85 FR 46295, July 31, 2020, as amended at 86 FR 52618, Sept. 22, 2021; 87 FR 57608, Sept. 21, 2022]

§ 71.25 Approval and designation of Primary and Secondary Family Caregivers.

(a) *Application requirement.* (1) Individuals who wish to be considered for designation by VA as Primary or Secondary Family Caregivers must submit a joint application, along with the veteran or servicemember. Individuals interested in serving as Family Caregivers must be identified as such on the joint application, and no more than three individuals may serve as Family Caregivers at one time for an eligible veteran, with no more than one serving as the Primary Family Caregiver and no more than two serving as Secondary Family Caregivers.

(2)(i) Upon receiving such application, VA (in collaboration with the primary care team to the maximum extent practicable) will perform the evaluations required to determine the eligibility of the applicants under this part, and if eligible, determine the applicable monthly stipend amount under § 71.40(c)(4). Notwithstanding the first sentence, VA will not evaluate a veteran's or servicemember's eligibility under § 71.20 when a joint application is received to add a Secondary Family Caregiver for an eligible veteran who has a designated Primary Family Caregiver.

(ii) Individuals who apply to be Family Caregivers must complete all necessary eligibility evaluations (along with the veteran or servicemember), education and training, and the initial home-care assessment (along with the veteran or servicemember) so that VA may complete the designation process no later than 90 days after the date the joint application was received by VA. If such requirements are not complete within 90 days from the date the joint application is received by VA, the joint application will be denied, and a new joint application will be required. VA may extend the 90-day period based on VA's inability to complete the eligibility evaluations, provide necessary education and training, or conduct the initial home-care assessment, when such inability is solely due to VA's action.

(3)(i) Except as provided in this paragraph, joint applications received by VA before October 1, 2020 will be evaluated by VA based on 38 CFR 71.15, 71.20, and 71.25 (2019). Notwithstanding the previous sentence, the term "joint application" as defined in § 71.15 applies to applications described in this paragraph.

(ii) Joint applications received by VA on or after October 1, 2020 will be evaluated by VA based on the provisions of this part in effect on or after October 1, 2020.

(A) VA will deny any joint application of an individual described in § 71.20(a)(2)(ii), if such joint application is received by VA before October 1, 2020. A veteran or servicemember seeking to qualify for the Program of Comprehensive Assistance for Family Caregivers pursuant to § 71.20(a)(2)(ii) should submit a joint application that is received by VA on or after October 1, 2020.

(B) VA will deny any joint application of an individual described in § 71.20(a)(2)(iii), if such joint application is received by VA before October 1, 2022. A veteran or servicemember seeking to qualify for the Program of Comprehensive Assistance for Family Caregivers pursuant to § 71.20(a)(2)(iii) should submit a joint application that is received by VA on or after October 1, 2022.

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(b) *Eligibility to serve as Primary or Secondary Family Caregiver.* In order to serve as a Primary or Secondary Family Caregiver, the applicant must meet all of the following requirements:

(1) Be at least 18 years of age.

(2) Be either:

(i) The eligible veteran's spouse, son, daughter, parent, step-family member, or extended family member; or

(ii) Someone who lives with the eligible veteran full-time or will do so if designated as a Family Caregiver.

(3) There must be no determination by VA of abuse or neglect of the eligible veteran by the applicant.

(4) Meet the requirements of paragraph (c) of this section, and any other applicable requirements of this part.

(c) *Assessment, education, and training of applicants.* Before VA approves an applicant to serve as a Primary or Secondary Family Caregiver, the applicant must:

(1) Be initially assessed by VA as being able to complete caregiver education and training. Such assessment will consider any relevant information specific to the needs of the eligible veteran, as well as:

(i) Whether the applicant can communicate and understand the required personal care services and any specific instructions related to the care of the eligible veteran (accommodation for language or hearing impairment will be made to the extent possible and as appropriate); and

(ii) Whether the applicant will be capable of performing the required personal care services without supervision, in adherence with the eligible veteran's treatment plan in support of the needs of the eligible veteran.

(2) Complete caregiver training and demonstrate the ability to carry out the specific personal care services, core competencies, and additional care requirements.

(d) *Caregiver education and training.* For the purposes of this section, caregiver training is a program of education and training designed and approved by VA that consists of issues that are generally applicable to Family Caregivers, as well as issues specific to the needs of the eligible veteran. During this program of education and training, family members are eligible

for beneficiary travel under 38 CFR part 70. Respite care will be provided during the period of initial caregiver instruction, preparation, and training if the participation would interfere with the provision of personal care services to the eligible veteran. Caregiver training will cover, at a minimum, education and training concerning the following core competencies:

(1) Medication management;

(2) Vital signs and pain control;

(3) Infection control;

(4) Nutrition;

(5) Functional activities;

(6) Activities of daily living;

(7) Communication and cognition skills;

(8) Behavior management skills;

(9) Skin care; and

(10) Caregiver self-care.

(e) *Initial home-care assessment.* VA will visit the eligible veteran's home to assess the eligible veteran's well-being and the well-being of the caregiver, as well as the caregiver's competence to provide personal care services at the eligible veteran's home.

(f) *Approval and designation.* VA will approve the joint application and designate Primary and/or Secondary Family Caregivers, as appropriate, if the applicable requirements of this part are met. Approval and designation is conditioned on the eligible veteran and designated Family Caregiver(s) remaining eligible for Family Caregiver benefits under this part, the Family Caregiver(s) providing the personal care services required by the eligible veteran, and the eligible veteran and designated Family Caregiver(s) complying with all applicable requirements of this part, including participating in reassessments pursuant to § 71.30 and wellness contacts pursuant to § 71.40(b)(2). Refusal to comply with any applicable requirements of this part will result in revocation from the program pursuant to § 71.45, Revocation and Discharge of Family Caregivers.

[76 FR 26172, May 5, 2011, as amended at 80 FR 1377, Jan. 9, 2015; 85 FR 46295, July 31, 2020; 87 FR 57608, Sept. 21, 2022]