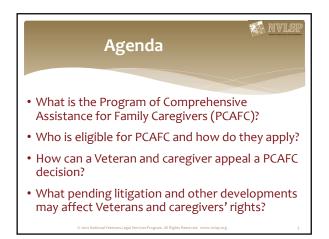
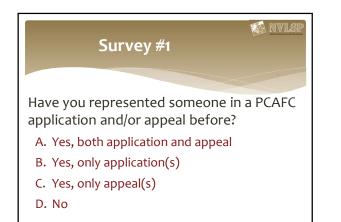
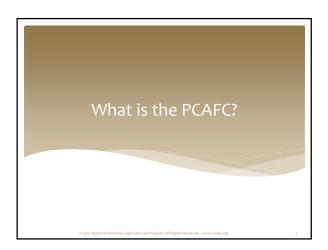
A Guide to VA Benefits for Family Caregivers and the *Beaudette* Class Action Presented by: Renée Burbank, NVLSP Director of Litigation

M NVLSI









Overview of PCAFC

- Only one part of Caregiver Support Program
- Enacted in 2010 to provide benefits to caregivers of post-9/11 disabled Veterans with serious injuries

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- Eligibility expanded by 2018 MISSION Act
 - As of 10/1/2020: Vets discharged on or before 5/7/1975
 - As of ???? : all Veterans
- July 1, 2020: Reg (85 Fed. Reg. 46,296) overhauled eligibility

• Mc	Benefit	S	NVLSP
- WIC			
	Pre-Oct 2020	Post-Oct 2020	
	Based on "tier" (3 tiers)	Based on "level" (2 levels)	
	Based on Bureau of Labor Statistics data	Based on Federal Government pay scale (GS scale)	
	© 2022 National Veterans Legal Services Progra	am. All Rights Reserved. www.nvlsp.org	7



Benefits (cont'd) Travel expenses (including lodging and per diem while accompanying the veterans undergoing care) Mental health services and counseling VA Caregiver training Respite care

• Access to CHAMPVA (if qualified)

				AND IN A THE
History of	f Proble	ms		
	LUCK!			
nconsistencies acro	oss VISNs			
VA Stations Continue To Shed Caregivers				
(bills in the VA canegole program vary then city to oly. Of the eight clatters that case in	te praimit nel issais in 2017, fon have cal aven more	cardy lower than in 2014		
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Rathert Westwick Presset, Area	224	34		2.008
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	106	0.90		199
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	100			
Charles Marsonel WMIC (Angolitis, Ch.) Marry S. Thompel Memoral (Columbia, Mic.) 	Quil Lawrence, VA's Ca		till Dropping Veter	ans With Disabilities

History of Problems (cont'd)

- A&C decisions
 - VA suspends discharges & decreases Dec 2018

MA NVLSI

- Delays
 - MISSION Act directed expansion by 10/1/19
- VA says no appeal rights b/c clinical program
 - Changes w/ Beaudette decision 4/21

Who is eligible for PCAFC and how do they apply?



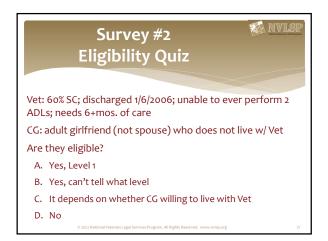


Eligibility (cont'd)

NVLS

- 4. In best interest of individual to participate
- 5. Care would be provided by **family** caregiver
- 6. Receives care at home
- 7. Has ongoing care from Primary Care Team





Survey #2 Eligibility Quiz

Vet (60% SC;) discharged 1/6/2006; unable to ever perform 2 ADLs; needs 6+mos. of care

NVLS

CG: adult girlfriend (not spouse) who does not live w/ Vet

- Are they eligible?
- A. Yes, Level 1
- B. Yes, can't tell what level
- C. It depends on whether CG willing to live with Vet
- (D. No)

Survey #3: Eligibility Quiz

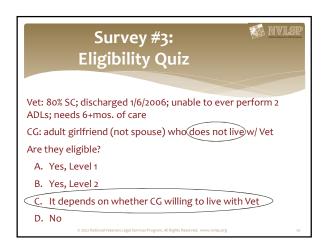
M NVLS

NVLS

Vet: 80% SC; discharged 1/6/2006; unable to ever perform 2 ADLs; needs 6+mos. of care

CG: adult girlfriend (not spouse) who does not live w/ Vet Are they eligible?

- A. Yes, Level 1
- B. Yes, Level 2
- C. It depends on whether CG willing to live with Vet
- D. No

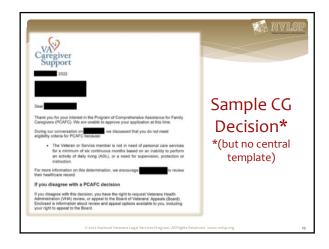


By the numbers

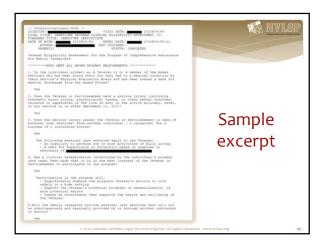
- In Sept 2021, **33,000** individuals enrolled in the program (19,800 legacy)
- ~400k total applicants (Veteran + CG)
- 97,100 applications from 10/1/20 to 8/1/21
- 88% denial rate for new applications
- VA est. 1 in 3 legacy participants will be removed
- Est. 40,368 BVA appeals FY2022

			Located Roles 17 ms AME Nation (MD-2116) Electron (MD-2116)		
2 Department of Veterans Affairs	APPLICATION ASSIST				
Advantum: Complete the application and shall it to Proge 2006, Advanta, GA 20129-1647. You may also real or has apply unlike a https://www.sager.family-member has Assessed in the Family Compares to individuals training	al carry it to your basel VA Medical I	Contro-Clangitore Ba	VA dools not provide the Program of Comprehensing		
	SECTION I - VE				
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"City	*State	_	*Zp Code		
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Email Address				www.	
Name of VA medical center or clinic where yo	w receive or plan to receive h	ealth care servic	es	carodivor	
Name of facility where you last received made	al treatment		Henghal Clinic	caregiver.	
				va.gov	
			fabe, fictilizes at fraudalent statements or claims.	-	
I certify that I give consent to the individual(s) nan Veterant) upon being approval as a Primary and/or certify that the information provided in this form in	Secondary Family Caregover(s)	a the Program of t	Compethematice Assistance for Family Campiters. I		
"Veteran or Representative Signature			Detter ADV DO 11177		
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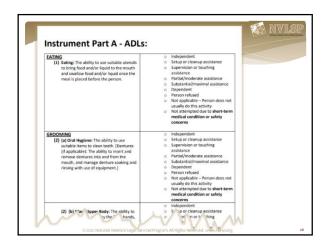




What's in a decision? What's in a decision? Mailed decision ≠ assessment notes in CAPRI But medical notes may not be very helpful either...



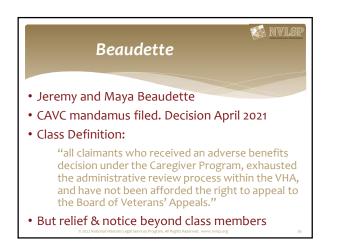












Implementation of Beaudette

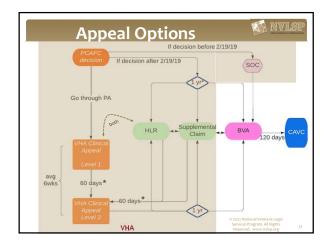
Notice to everyone: starting Nov 17, 2021

NVLS

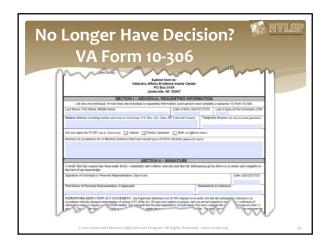
- ~200k sent as of Feb 14, 2022
- Appeal rights w/ new decisions starting Sept 28, 2021
- New Forms: 10-305, 10-306, 10-307, and recent change to 10182





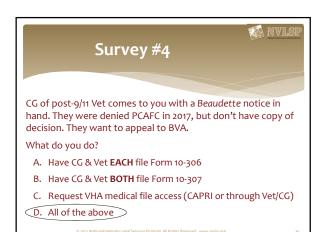








CG of post-9/11 Vet comes to you with a Beaudette notice in hand. They were denied PCAFC in 2017, but don't have copy of decision. They want to appeal to BVA. What do you do? A. Have CG & Vet EACH file Form 10-306 B. Have CG & Vet BOTH file Form 10-307 C. Request VHA medical file access (CAPRI or through Vet/CG) D. All of the above



Best Practices

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- Check date of decision!!
 - What if don't know date and VA non-responsive?
- Multiple decisions?
 - VHA processing not in VBMS important to keep track
- Medical file review is critical
 - Consider filing supplemental claim or new evidence
- Make process arguments as well as substantive

Unresolved Issues

- Former caregivers; deceased claimants
- Simultaneous appeals processes
- New evidence or failure to consider evidence already on record?
 Meeting supp claim new and relevant standard

WA NVLS

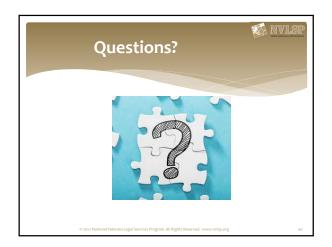
WA NVLS

- Problems related to Form 10-306
- Due process on reductions/removals when on appeal
- Right to 8-point letter
- Lots & lots more...

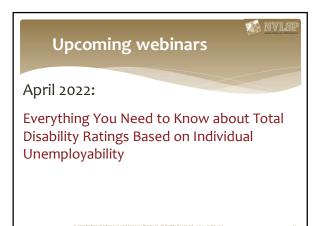


Developments to watch

- Beaudette appeal
- Veteran Warriors rulemaking challenge
- Pending rulemaking petition
- Congressional inquiries
- Pending legislation







Library of Past Webinars

 Previous NVLSP webinars are available <u>here</u> (<u>https://productsbynvlsp.org/product-category/on-demand-webinars-vso-training/</u>)

NVLS

- Webinars are available for 72 hours after purchase
- Topics include:
 - Effective Strategies for Written and Oral Advocacy Before the VA
 - Ensuring the VA Properly Evaluates Joint Disabilities
 - Establishing Service Connection for Hearing Loss and Tinnitus





