

September 27, 2021

The Honorable Mark Takano, Chairman
House Committee on Veterans' Affairs
B234 Longworth House Office Building
Washington, D.C. 20515

The Honorable Mike Bost, Ranking Member
House Committee on Veterans Affairs
B234, Longworth House Office Building
Washington, DC 20515

Dear Chairman Takano and Ranking Member Bost,

On behalf of the millions of veterans and military families that our organizations represent, we write to express our support for the [*Beaudette v. McDonough*](#) decision by the U.S. Court of Appeals for Veterans Claims (CAVC) and our opposition to any legal or legislative efforts to overturn this decision and thereby deny the right to appeal to the Board of Veterans' Appeals (BVA) decisions made in the VA Program of Comprehensive Assistance for Family Caregivers ("Caregiver Program").

The Caregiver Program was enacted to provide critical assistance to seriously disabled veterans and their caregivers. The program, however, has failed to deliver its full promise, in part because the internal Veterans Health Administration (VHA) clinical appeal process has resulted in [too many unjust outcomes](#) for thousands of disabled veterans and their caregivers. Yet, for years, the VA has not allowed BVA review for Caregiver Program decisions. That meant that, unlike other VA clinical and benefits programs, the Caregiver Program was entirely insulated from any BVA or judicial oversight. Until the *Beaudette* decision guaranteed the right to appeal to BVA, veterans and their caregivers had no legal recourse to challenge arbitrary decisions or inconsistent application of eligibility criteria outside of the VHA clinical appeal process.

Jeremy Beaudette served in the Marine Corps from 2002 to 2012, completing five combat tours in Iraq and Afghanistan, which resulted in traumatic brain injury and rendered him legally blind. His wife, Maya, quit her job to care for her husband full time. The Department of Veterans Affairs admitted them into the Caregiver Program, and consistently found them eligible for over four years, but then removed them after the VA refused to reschedule a required medical examination while Mr. Beaudette recovered from two major surgeries. The VA regulations denied them the right to appeal that decision to the BVA.

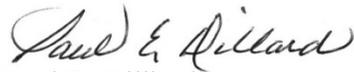
Having no other recourse, the Beaudettes filed suit in the U.S. Court of Appeals for Veterans Claims (CAVC), which held that claimants like the Beaudettes should be able to appeal adverse decisions based on non-medical factors. Given our decade of experience with arbitrary and unjust Caregiver Program decisions during the period they were shielded from BVA review, we strongly agree with and support the CAVC decision.

In late July, however, the House Veterans' Affairs Committee approved legislation, H.R. 4625, that contains a provision that would overturn the CAVC's ruling and take veterans' appeal rights away. Although the bill's other provisions to improve the Caregiver Program have received widespread support, we write to urge Congress not to strip from disabled veterans and their caregivers the appellate rights that other VA claimants have.

The appeal rights afforded by the *Beaudette* decision do not undermine the medical judgment of VHA clinicians and staff. Indeed, VA regulation already provides that purely medical determinations are beyond the Board's jurisdiction. The court did not disturb this regulation, and the BVA and the courts regularly and successfully navigate this distinction in appeals from other VHA program decisions. Severely disabled veterans and their caregivers should not be singled out for exclusion from BVA and judicial review.

Allowing veterans the right to appeal non-medical determinations in the VA Caregiver program is the right thing to do. The financial and medical hardships that severely-disabled veterans may be experiencing require us to ensure that they have every reasonable opportunity to receive the care and benefits they have earned through their service, including benefits for their caregivers. Therefore, the undersigned veterans service organizations, who represent millions of veterans, servicemembers and their families, respectfully request that you resist any legislative effort to overturn the *Beaudette* decision and strip away the rights of veterans and their caregivers to appeal non-medical decisions related to the VA Caregiver Program to the Board of Veterans Appeals and ultimately to the Court of Appeals for Veterans Claims if warranted.

Respectfully,



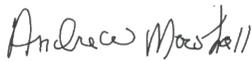
Paul E. Dilliard
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Executive Director
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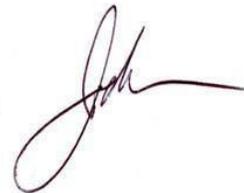
VINCENT "BJ" LAWRENCE
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Paul Wright
Executive Director
National Veterans Legal
Services Program



John Rowan
National President/CEO
Vietnam Veterans of America



CEO
Iraq and Afghanistan
Veterans of America



Carl Blake
Executive Director
Paralyzed Veterans of America



Holly Ferrell
Executive Director
Veteran Warriors

cc: Members of the House Committee on Veterans' Affairs
Chairman Jon Tester, Senate Committee on Veterans' Affairs
Ranking Member Jerry Moran, Senate Committee on Veterans' Affairs
Secretary of Veterans Affairs Denis McDonough