

103RD CONGRESS
2^D SESSION

H. R. 4013

AMENDMENT

In the Senate of the United States,

June 8 (legislative day, June 7), 1994.

Resolved, That the bill from the House of Representatives (H.R. 4013) entitled “An Act to amend title 38, United States Code, to provide the Secretary of Veterans Affairs with necessary flexibility in staffing the Veterans Health Administration”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE.***

2 *This Act may be cited as the “VA State Health Care*
3 *Reform Pilot Program Act”.*

4 ***SEC. 2. PURPOSE OF PILOT PROGRAMS.***

5 *The purpose of this Act is to authorize the participa-*
6 *tion of the Department of Veterans Affairs health care sys-*
7 *tem in the health care systems of States that have enacted*
8 *health care reform in order to evaluate the most appropriate*
9 *means of enabling the Department health care system to*
10 *participate in such systems and in the National health care*

1 *system contemplated under any plans for National health*
2 *care reform.*

3 **SEC. 3. HEALTH CARE PILOT PROGRAMS.**

4 *(a) IN GENERAL.—The Secretary may carry out pilot*
5 *programs on the participation of the Department of Veter-*
6 *ans Affairs health care system in the health care systems*
7 *of States that have adopted comprehensive health benefit*
8 *plans. The Secretary shall carry out any pilot program*
9 *under this Act in accordance with the provisions of this*
10 *Act.*

11 *(b) STATES ELIGIBLE FOR DESIGNATION.—(1) The*
12 *Secretary shall designate each of not more than five States*
13 *as a location for a pilot program under this Act. The Sec-*
14 *retary shall complete the designation of States as locations*
15 *for pilot programs not later than 30 days after the date*
16 *of the enactment of this Act.*

17 *(2) The Secretary may designate a State as a location*
18 *for a pilot program under this Act if the Secretary deter-*
19 *mines that—*

20 *(A) the State has enacted, or will soon enact, a*
21 *statute establishing or providing for a comprehensive*
22 *health benefit plan; and*

23 *(B) the participation of the health care system of*
24 *the Department under the plan is feasible and appro-*
25 *priate in light of the purpose of this Act.*

1 (c) *DEPARTMENT PARTICIPATION IN STATE HEALTH*
2 *BENEFIT PLANS—(1) To the maximum extent practicable,*
3 *the Secretary shall provide eligible persons under each pilot*
4 *program under this Act with the comprehensive package of*
5 *basic health care benefits that would otherwise be available*
6 *to such persons under the comprehensive health benefit plan*
7 *of the State in which the pilot program is carried out. The*
8 *Secretary shall provide such benefits through the health care*
9 *system of the Department in such State as if such system*
10 *were a provider of such benefits under such plan.*

11 (2) *Notwithstanding any other provision of law, a*
12 *State may not prohibit the participation of the Department*
13 *under the comprehensive health benefit plan of the State*
14 *under a pilot program unless the chief executive officer of*
15 *the State certifies to the Secretary that—*

16 (A) *the benefits to be provided by the Depart-*
17 *ment under the pilot program do not meet require-*
18 *ments for quality of benefits established by or pro-*
19 *vided under the plan; or*

20 (B) *the location of Department facilities (includ-*
21 *ing facilities providing services by contract or agree-*
22 *ment with the Secretary) in the State is such that the*
23 *proximity of eligible persons to such facilities does not*
24 *meet requirements so established for such proximity.*

1 (3) *Not later than 30 days after the designation of a*
2 *State as a location for a pilot program under this Act, and*
3 *at such other times as the Secretary may determine, the*
4 *Secretary and the health system director for that State shall*
5 *jointly determine the regulations under the authority of the*
6 *Secretary the waiver or modification of which is necessary*
7 *in order to facilitate the carrying out of the pilot program.*
8 *Upon such determination, the Secretary shall waive or*
9 *modify the application of such regulations to the pilot pro-*
10 *gram.*

11 (4) *The Secretary shall furnish any eligible person liv-*
12 *ing in a State in which a pilot program is carried out (in-*
13 *cluding any eligible person electing to receive benefits under*
14 *the pilot program and any eligible person not electing to*
15 *receive benefits under the pilot program) with the health*
16 *care benefits for which such person is eligible under chapter*
17 *17 of title 38, United States Code, notwithstanding that the*
18 *comprehensive package of basic health care benefits provided*
19 *under the comprehensive health benefit plan of the State*
20 *does not otherwise include such health care benefits. The*
21 *Secretary shall furnish any health care benefits under this*
22 *paragraph in accordance with the provisions of that chap-*
23 *ter.*

24 (d) *HEALTH SYSTEM DIRECTOR.—(1) The Secretary*
25 *shall designate a health system director for each State in*

1 *which a pilot program is carried out under this Act. To*
2 *the maximum extent feasible, the Secretary shall delegate*
3 *to the health system directors the responsibilities of the Sec-*
4 *retary under this Act.*

5 (2)(A) *Subject to subparagraph (B), the Secretary*
6 *shall designate an individual as health system director for*
7 *a State from among nominees for that position selected by*
8 *a panel composed of individuals who are senior manage-*
9 *ment personnel of the Department medical centers located*
10 *in that State.*

11 (B) *An individual selected for nomination to be a*
12 *health system director of a State under subparagraph (A)*
13 *shall be—*

14 (i) *the director or chief of staff of a Department*
15 *medical center located in the State in which the pilot*
16 *program is carried out; or*

17 (ii) *any other individual having experience with*
18 *the Department medical system that is equivalent to*
19 *the experience with that system of an individual in*
20 *a position referred to in clause (i).*

21 (e) *ADMINISTRATIVE REORGANIZATION.—The Sec-*
22 *retary may carry out any administrative reorganization of*
23 *an office, facility, activity, or function of the health care*
24 *system of the Department in a State in which a pilot pro-*
25 *gram is carried out that the Secretary and the health system*

1 *director jointly determine to be necessary in order to facili-*
2 *tate the carrying out of the pilot program. Section 510(b)*
3 *of title 38, United States Code, shall not apply to any such*
4 *administrative reorganization.*

5 *(f) PROVISION OF BENEFITS.—(1)(A) Except as pro-*
6 *vided in subparagraph (B), the Secretary shall provide*
7 *health care benefits under a pilot program—*

8 *(i) through the direct provision of such services*
9 *by the health care system of the Department in the*
10 *State in which the pilot program is carried out; or*

11 *(ii) by contract or other agreement in accordance*
12 *with paragraph (2).*

13 *(B) The Secretary may exclude facilities of the Depart-*
14 *ment from participation in a pilot program. Any facilities*
15 *so excluded shall continue to provide health care benefits*
16 *to veterans and other persons eligible for such benefits in*
17 *accordance with the provisions of laws administered by the*
18 *Secretary.*

19 *(2) The health system director of a pilot program may*
20 *enter into contracts and agreements for the provision of*
21 *health care services and contracts and agreements for other*
22 *services with respect to the pilot program under paragraph*
23 *(1)(A)(ii). Any such contract or agreement (including any*
24 *lease) shall not be subject to the following provisions of law:*

1 (A) *Section 8110(c) of title 38, United States*
2 *Code, relating to contracting of services at Depart-*
3 *ment health-care facilities.*

4 (B) *Section 8122(a)(1) of such title, relating to*
5 *the lease of Department property.*

6 (C) *Section 8125 of such title, relating to local*
7 *contracts for the procurement of health-care items.*

8 (D) *Section 702 of title 5, United States Code,*
9 *relating to the right of review of agency wrongs by*
10 *courts of the United States.*

11 (E) *Sections 1346(a)(2) and 1491 of title 28,*
12 *United States Code, relating to the jurisdiction of the*
13 *district courts of the United States and the United*
14 *States Court of Federal Claims, respectively, for the*
15 *actions enumerated in such sections.*

16 (F) *Subchapter V of chapter 35 of title 31,*
17 *United States Code, relating to adjudication of pro-*
18 *tests of violations of procurement statutes and regula-*
19 *tions.*

20 (G) *Sections 3526 and 3702 of such title, relat-*
21 *ing to the settlement of accounts and claims, respec-*
22 *tively, of the United States.*

23 (H) *Subsections (b)(7), (e), (f), (g), and (h) of*
24 *section 8 of the Small Business Act (15 U.S.C.*
25 *637(b)(7), (e), (f), (g), and (h)), relating to require-*

1 *ments with respect to small businesses for contracts*
2 *for property and services.*

3 *(I) The provisions of law assembled for purposes*
4 *of codification of the United States Code as section*
5 *471 through 544 of title 40 that relate to the author-*
6 *ity of the Administrator of General Services over the*
7 *lease and disposal of Federal Government property.*

8 *(J) The Office of Federal Procurement Policy Act*
9 *(41 U.S.C. 401 et seq.), relating to the procurement*
10 *of property and services by the Federal Government.*

11 *(K) Chapter 3 of the Federal Property and Ad-*
12 *ministrative Services Act of 1949 (41 U.S.C. 251 et*
13 *seq.), relating to the procurement of property and*
14 *services by the Federal Government.*

15 *(L) Office of Management and Budget Circular*
16 *A-76.*

17 *(3)(A) Notwithstanding any other provision of law,*
18 *contracts and agreements for the provision of health care*
19 *services under this subsection may include contracts and*
20 *other agreements with insurers, health care providers, or*
21 *other individuals or entities that provide health care serv-*
22 *ices.*

23 *(B) Contracts and agreements under this paragraph*
24 *may be entered into without prior review by the Central*
25 *Office of the Department.*

1 (4)(A) *Contracts and agreements under this subsection*
2 *for services other than the services referred to in paragraph*
3 *(3) (including contracts and agreements for procurement of*
4 *equipment, maintenance and repair services, and other*
5 *services related to the provision of health care services) shall*
6 *not be subject to prior review by the Central Office if the*
7 *amount of such contracts or agreements is less than*
8 *\$250,000.*

9 (B) *Contracts and agreements for services under this*
10 *paragraph shall be subject to prior review by the Central*
11 *Office if the amount of such contracts or agreements is*
12 *\$250,000 or greater. If the Central Office fails to approve*
13 *or reject a contract or agreement under this clause within*
14 *30 days of its submittal to the Central Office, such contract*
15 *or agreement shall be deemed approved by the Central Of-*
16 *fice.*

17 (g) *DEPARTMENT PERSONNEL.—(1) Notwithstanding*
18 *any other provision of law and to the extent necessary to*
19 *carry out the purpose of a pilot program, the Secretary*
20 *may—*

21 (A) *appoint personnel to positions in the health*
22 *care system of the Department in the State in which*
23 *the pilot program is carried out in accordance with*
24 *such standards for such positions as the Secretary*
25 *may establish; and*

1 (B) promote and advance personnel serving in
2 such positions in accordance with such standards as
3 the Secretary may establish.

4 (2) Not later than 60 days after the designation of a
5 State as a location for a pilot program under this Act, or
6 at such other time as the Secretary may determine, the Sec-
7 retary shall request authority from the Director of the Office
8 of Management and Budget to permit the Secretary to em-
9 ploy a number of full time equivalent employees in the
10 health care system of the Department in that State which
11 exceeds the number of such employees that would otherwise
12 be authorized for such employment by the Director.

13 (3) Notwithstanding any other provision of law, em-
14 ployees of the Department at facilities of the Department
15 under a pilot program shall not, during the carrying out
16 of the pilot program, be subject to any reduction in the
17 number of full time employees of the Department or as a
18 result of a reduction in the number of full time employees
19 of the Federal Government.

20 (h) *ELIGIBLE PERSONS.*—(1) A person eligible for
21 health care benefits under a pilot program is any person
22 residing in a State in which a pilot program is carried
23 out as follows:

24 (A) Any veteran.

25 (B) Any spouse or child of a veteran.

1 (C) Any individual eligible for care under para-
2 graph (2) or (3) of section 1713(a) of title 38, United
3 States Code.

4 (2) Notwithstanding any other provision of law, a
5 State may not require that any person other than a person
6 referred to in paragraph (1) be eligible for health care bene-
7 fits through the Department under a pilot program.

8 (i) *COPAYMENTS AND OTHER CHARGES.*—(1) Except
9 as provided in paragraph (2), the Secretary may collect
10 from or on behalf of any individual receiving health care
11 benefits from the Secretary under a pilot program under
12 this Act a premium, deductible, copayment, or other charge
13 with respect to the provision of a benefit under the pilot
14 program. The amount of the premium, deductible,
15 copayment, or other charge collected with respect to a bene-
16 fit provided under a pilot program may not exceed the max-
17 imum amount otherwise permitted for a premium, deduct-
18 ible, copayment, or other charge with respect to that benefit
19 under the comprehensive health benefits plan of the State
20 in which the pilot program is carried out.

21 (2)(A) Except as provided in subparagraph (B), the
22 Secretary shall not collect under the pilot programs pre-
23 miums, deductibles, copayments, and other charges with re-
24 spect to the benefits provided by the Department to the fol-
25 lowing:

1 (i) *Veterans with compensable service-connected*
2 *disabilities.*

3 (ii) *Veterans whose discharge or release from ac-*
4 *tive military, naval, or air service was for a compen-*
5 *sable disability that was incurred or aggravated in*
6 *the line of duty.*

7 (iii) *Veterans who are in receipt of, or who, but*
8 *for a suspension pursuant to section 1151 of title 38,*
9 *United States Code (or both a suspension and the re-*
10 *ceipt of retired pay), would be entitled to disability*
11 *compensation, but only to the extent that such veter-*
12 *ans' continuing eligibility for such care is provided*
13 *for in the judgment or settlement provided for in such*
14 *section.*

15 (iv) *Veterans who are former prisoners of war.*

16 (v) *Veterans of the Mexican border period or of*
17 *World War I.*

18 (vi) *Veterans who are unable to defray the ex-*
19 *penses of necessary care, as determined in accordance*
20 *with section 1722(a) of such title.*

21 (B) *The Secretary may collect premiums, deductibles,*
22 *copayments, and other charges with respect to benefits pro-*
23 *vided under a pilot program to veterans referred to in sub-*
24 *paragraph (A) from any third party obligated to provide,*
25 *or to pay the expenses of, such benefits to or for such veter-*

1 *ans under the comprehensive health benefits plan of the*
2 *State in which the pilot program is carried out.*

3 *(j) FUNDING.—(1) There is established in the Treasury*
4 *a fund to be known as the Department of Veterans Affairs*
5 *Health Care Reform Fund (hereafter referred to in this sub-*
6 *section as the “Fund”).*

7 *(2)(A) Notwithstanding any other provision of law,*
8 *amounts shall be deposited in the Fund as follows:*

9 *(i) Amounts collected under a pilot program in*
10 *accordance with subsection (i).*

11 *(ii) Amounts made available to a pilot program*
12 *based upon a determination under paragraph (3).*

13 *(iii) Amounts transferred to the Fund with re-*
14 *spect to a pilot program under paragraph (4).*

15 *(iv) Such other amounts as the Secretary and*
16 *the health system directors of the pilot programs*
17 *jointly determine to be necessary in order to carry out*
18 *the pilot programs.*

19 *(v) Such other amounts as may be appropriated*
20 *to the pilot programs.*

21 *(B) Amounts deposited in the Fund pursuant to*
22 *clauses (ii) and (iv) shall be derived from amounts appro-*
23 *priated to the Department of Veterans Affairs for the Veter-*
24 *ans Health Administration for medical care.*

1 (C) *The Secretary shall establish and maintain a separate*
2 *account under the Fund for each pilot program carried*
3 *out under this Act. Any deposits and expenditures with re-*
4 *spect to a pilot program shall be made to or from the ac-*
5 *count established and maintained with respect to that pilot*
6 *program.*

7 (3)(A) *For each year of the operation of a pilot pro-*
8 *gram under this Act, the Secretary shall deposit in the ac-*
9 *count of the Fund for the pilot program an amount (as*
10 *determined by the Secretary) equal to the amount that*
11 *would otherwise be made available to the health care system*
12 *of the Department in the State in which the pilot program*
13 *is carried out for the payment of the cost of health care*
14 *services by such system in that State in that year. The Sec-*
15 *retary shall deposit such amount at the beginning of such*
16 *year.*

17 (B) *The costs referred to in subparagraph (A) shall*
18 *not include costs relating to the provision by the Secretary*
19 *of the following services:*

20 (i) *Services relating to post-traumatic stress dis-*
21 *order.*

22 (ii) *Services relating to spinal-cord dysfunction.*

23 (iii) *Services relating to substance abuse.*

24 (iv) *Services relating to the rehabilitation of*
25 *blind veterans.*

1 (v) *Services relating to prosthetics.*

2 (4) *Funds deposited in the Medical-Care Cost Recovery*
3 *Fund established under section 1729(g) of title 38, United*
4 *States Code, during any fiscal year in an amount in excess*
5 *of the Congressional Budget Office baseline (as of the date*
6 *of the enactment of this Act) for deposits in that fund for*
7 *that fiscal year shall not be subject to paragraph (4) of sec-*
8 *tion 1710(f), 1712(f), or 1729(g) (as the case may be) of*
9 *that title, but shall be transferred to the fund established*
10 *under this subsection. Such transfer for any fiscal year shall*
11 *be made at any time that the total of amounts so received*
12 *less amounts estimated to cover the expenses, payments, and*
13 *costs described in paragraph (3) of section 1729(g) of that*
14 *title is in excess of the applicable Congressional Budget Of-*
15 *fice baseline.*

16 (5)(A) *Notwithstanding any other provision of law,*
17 *amounts in the Fund shall be available for all expenses in-*
18 *curred by the Veterans Health Administration in carrying*
19 *out the pilot programs. Subject to subparagraph (B), the*
20 *health system director for a State in which a pilot program*
21 *is carried out shall determine the expenses of the pilot pro-*
22 *gram for that State for purposes of this paragraph.*

23 (B)(i) *Except as provided in clause (ii), the costs of*
24 *carrying out a pilot program under this paragraph shall*
25 *include any costs of marketing and advertising under the*

1 program, costs of legal services provided to such pilot pro-
2 gram by the General Counsel of the Department of Veterans
3 Affairs, and costs relating to acquisition (including acquisi-
4 tion of land), construction, repair, or renovation of facili-
5 ties.

6 (ii) Costs under this subparagraph shall not include
7 any costs relating to a major medical facility project or
8 a major medical facility lease as such terms are defined
9 in subparagraphs (A) and (B) of section 8104(a)(3) of title
10 38, United States Code, respectively.

11 (C) The period of availability of amounts in an ac-
12 count established in the Fund for a pilot program shall end
13 on the last day of the fiscal year in which the pilot program
14 is carried out.

15 (k) **TERMINATION.**—A pilot program carried out under
16 this Act shall terminate not later than 2 years after the
17 date of the commencement of provision of benefits under the
18 pilot program.

19 **SEC. 4. REPORTS ON PILOT PROGRAMS.**

20 (a) **COLLECTION OF INFORMATION.**—(1) The Secretary
21 shall collect such information with respect to the provision
22 of health care benefits under each pilot program as is nec-
23 essary to permit the Secretary to evaluate the pilot program
24 in light of the purpose of the pilot program under this Act.

1 (2) *The information collected by the Secretary under*
2 *paragraph (1) shall include aggregated data on the follow-*
3 *ing:*

4 (A) *The number of persons participating in each*
5 *pilot program, including the age, sex, health status,*
6 *disability ratings (if any), employment status, and*
7 *incomes of such persons.*

8 (B) *The nature of benefits sought by such persons*
9 *under each pilot program.*

10 (C) *The nature and quantity of benefits provided*
11 *to such persons under each pilot program.*

12 (D) *The cost to the Department of providing*
13 *such benefits under each pilot program.*

14 (b) *REPORTS.—(1) Not later than 14 months after the*
15 *date of the completion of the designation of States as loca-*
16 *tions for pilot programs under this Act, the Secretary shall*
17 *submit to the Committees on Veterans' Affairs of the Senate*
18 *and House of Representatives a report on the progress of*
19 *the Secretary in carrying out the pilot programs. Such re-*
20 *port shall include the information referred to in subsection*
21 *(a)(2) on the date of the report.*

22 (2) *Not later than November 30 of the year of the ter-*
23 *mination of the final pilot program under this Act, the Sec-*
24 *retary shall submit to the committees referred to in para-*

1 *graph (1) a report on the pilot programs carried out under*
2 *this Act. The report shall include the following:*

3 *(A) The information referred to in subsection*
4 *(a)(2), together with the comments and conclusions of*
5 *the Secretary with respect to such information.*

6 *(B) An assessment by the Secretary of the utility*
7 *of each pilot program for carrying out the purpose of*
8 *this Act.*

9 *(C) An assessment by the Secretary of appro-*
10 *priate means of integrating the health care system of*
11 *the Department into the health care systems of States*
12 *that have enacted health care reform and into the Na-*
13 *tional health care system contemplated under any*
14 *plans for National health care reform.*

15 *(D) Such other information, assessments, and*
16 *conclusions as the Secretary considers appropriate.*

17 *(3) Not later than 30 days after the end of any fiscal*
18 *year in which a pilot program is carried out under section*
19 *3, the Secretary shall submit to the appropriate committees*
20 *of Congress a report describing the amounts expended from*
21 *the Department of Veterans Affairs Health Care Reform*
22 *Fund established under section 3(j)(1) during that fiscal*
23 *year for each pilot program so carried out.*

24 **SEC. 5. DEFINITIONS.**

25 *For the purposes of this Act—*

1 (1) *The terms “Secretary”, “Department”, “vet-*
2 *eran”, “child” and “spouse” have the meanings given*
3 *such terms in paragraphs (1), (2), (4), and (31) of*
4 *section 101 of title 38, United States Code, respec-*
5 *tively.*

6 (2) *The term “comprehensive health benefit*
7 *plan”, in the case of a State, means a plan or system*
8 *established under the law of the State that—*

9 (A) *attempts to ensure the access of resi-*
10 *dents of the State to a comprehensive package of*
11 *basic health care benefits; and*

12 (B) *ensures such access by providing that*
13 *such benefits shall be provided directly or by con-*
14 *tract by public and private entities.*

15 (3) *The term “comprehensive package of basic*
16 *health care benefits” means the health care benefits*
17 *provided for by a State under the comprehensive*
18 *health benefit plan of the State.*

19 (4) *The term “health care system of the Depart-*
20 *ment”, in the case of a State designated as a location*
21 *for a pilot program, means the facilities and person-*
22 *nel of the Department located in that State that pro-*

- 1 *vide health care services under chapter 17 of title 38,*
- 2 *United States Code.*

Attest:

Secretary.

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