

103^D CONGRESS
2^D SESSION

H. R. 4013

To amend title 38, United States Code, to provide the Secretary of Veterans Affairs with necessary flexibility in staffing the Veterans Health Administration, to authorize the Secretary to establish pilot programs for health care delivery, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 11, 1994

Mr. ROWLAND (for himself, Mr. MONTGOMERY, Mr. STUMP, and Mr. SMITH of New Jersey) introduced the following bill; which was referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to provide the Secretary of Veterans Affairs with necessary flexibility in staffing the Veterans Health Administration, to authorize the Secretary to establish pilot programs for health care delivery, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Veterans Health Pro-
5 grams Improvement Act of 1994”.

1 **TITLE I—VETERANS HEALTH AD-**
2 **MINISTRATION STAFFING**
3 **LEVELS**

4 **SEC. 101. FINDINGS.**

5 The Congress makes the following findings:

6 (1) Under proposals for national health care re-
7 form, the Department of Veterans Affairs would be
8 required to establish an enrollment system for veter-
9 ans and to provide health care on a competitive basis
10 with other, private health care providers.

11 (2) In order to be able to implement changes
12 contemplated by proposals for national health care
13 reform, the Secretary of Veterans Affairs must have
14 flexibility to restructure and reform the Veterans
15 Health Administration as necessary without exter-
16 nally imposed constraints on full-time equivalent em-
17 ployee (FTEE) positions levels.

18 (3) The Office of Management and Budget, as
19 part of an announced plan to require a reduction
20 over five years of 252,000 FTEE positions in the
21 executive branch, proposes to require reductions of
22 FTEE positions totaling 25,493 in personnel of the
23 Veterans Health Administration, a reduction in per-
24 sonnel which would severely impede the ability of the
25 Department of Veterans Affairs to implement na-

1 tional health care reform and to meet the respon-
2 sibilities of the Department under existing law.

3 **SEC. 102. EMPLOYMENT LEVEL IN VETERANS HEALTH AD-**
4 **MINISTRATION.**

5 (a) IN GENERAL.—Chapter 7 of title 38, United
6 States Code, is amended by adding at the end the follow-
7 ing new section:

8 **“§ 713. Full-time equivalent employees: limitation on**
9 **reduction**

10 “(a) During the five-year period beginning on Octo-
11 ber 1, 1994, no reduction may be made in the number
12 of full-time equivalent employees in the Veterans Health
13 Administration other than as specifically required by a law
14 directing reductions in personnel or positions of the Veter-
15 ans Health Administration or by the availability of funds.
16 During that period, the personnel of the Veterans Health
17 Administration shall be managed on the basis of the needs
18 of eligible veterans and the availability of funds.

19 “(b) During the period specified in subsection (a), no
20 law imposing a restriction on hiring by executive agencies
21 for the purpose of achieving workforce reductions shall
22 apply to the Veterans Health Administration.

23 “(c) No law may be construed as suspending or modi-
24 fying this section unless such law specifically refers to or
25 amends this section.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
 2 at the beginning of such chapter is amended by adding
 3 at the end the following new item:

“713. Full-time equivalent employees: limitation on reduction.”.

4 **SEC. 103. REPORT ON STREAMLINING.**

5 Not later than January 15, 1995, the Secretary of
 6 Veterans Affairs shall submit to the Committees on Veter-
 7 ans’ Affairs of the Senate and House of Representatives
 8 a report on streamlining activities in the Veterans Health
 9 Administration. The report shall include a description
 10 of—

11 (1) opportunities to improve the efficiency and
 12 effectiveness of delivery of health care services in the
 13 Veterans Health Administration through consolida-
 14 tion, reorganization, or other means;

15 (2) plans and actions taken to realize such effi-
 16 ciencies; and

17 (3) impediments to implementing particular
 18 plans.

19 **TITLE II—PILOT PROGRAMS**

20 **SEC. 201. SHORT TITLE.**

21 This title may be cited as the “Veterans Health-Care
 22 Pilot Program Act of 1994”.

23 **SEC. 202. PILOT PROGRAM AUTHORITY.**

24 (a) IN GENERAL.—Subject to section 203, the Sec-
 25 retary of Veterans Affairs may establish and operate a

1 pilot program under this Act in up to five States which
2 have established a State reform plan.

3 (b) STATE REFORM PLANS.—For purposes of this
4 Act, a State reform plan shall be considered to have been
5 established in a State if the Secretary determines that the
6 State has enacted legislation that is intended, at least in
7 part, to provide residents of that State who lack, or have
8 inadequate, health insurance coverage access to health
9 care services.

10 (c) AUTHORITY OF SECRETARY UNDER PILOT PRO-
11 GRAM.—Notwithstanding any other law, the Secretary, in
12 carrying out a pilot program in a State under this title,
13 may do the following:

14 (1) Provide health-care services on the same or
15 similar basis as the State reform plan mandates to
16 veterans, members of the family of a veteran who
17 participates in the pilot program, and individuals de-
18 scribed in section 1713(a) of title 38, United States
19 Code, including the establishment of one or more
20 health plans in that State through Department of
21 Veterans Affairs health care facilities in the State
22 and the implementation of an enrollment option for
23 eligible beneficiaries.

24 (2) Comply with such requirements of State law
25 applicable to the establishment and operation of a

1 health plan under a State reform plan, or to func-
2 tioning as a participant in, member of, or contractor
3 to, such a health plan, as the Secretary considers
4 appropriate for application to a Federal department.

5 (3) Conduct the pilot program in some or all
6 Department of Veterans Affairs health-care facilities
7 located in the State.

8 (4) Establish such catchment areas for enroll-
9 ment in the pilot programs as the Secretary deter-
10 mines appropriate.

11 **SEC. 203. CONDITIONS OF PARTICIPATION.**

12 (a) IN GENERAL.—The Secretary may establish and
13 operate a pilot program in a State under section 202 only
14 if—

15 (1) the Secretary has determined, based on
16 such factors as the Secretary considers relevant
17 (which shall include the factors specified in sub-
18 section (b)) that, in the absence of an enrollment op-
19 tion through a Department of Veterans Affairs plan
20 in that State, the projected workload in one or more
21 Department of Veterans Affairs health care facilities
22 in the State would decline to a level that—

23 (A) would threaten to impair the capability
24 of those facilities to meet one or more assigned
25 mission of those facilities; or

1 (B) would result in a deterioration in the
2 quality of service-delivery to a degree that it
3 would not be reasonable to continue to provide
4 a needed service or services in such facility or
5 facilities and satisfactory alternative arrange-
6 ments could not feasibly be provided;

7 (2) the Secretary has taken action to ensure
8 that in designing and establishing a health plan
9 under the pilot program, provisions are made, to the
10 extent feasible, for the applicability and compatibil-
11 ity of the components of the plan with other Depart-
12 ment health care facilities that are not participants
13 in the pilot program in that State; and

14 (3) the Secretary has provided for an evaluation
15 of the pilot program to assess (A) appropriate meas-
16 ures of (i) access to service, (ii) cost of care, (iii)
17 quality of service to patients, and (iv) quality of
18 care, (B) the ability of such plans to attract enroll-
19 ees, and (C) such other matters as the Secretary de-
20 termines appropriate.

21 (b) FACTORS TO BE CONSIDERED.—Factors consid-
22 ered by the Secretary for purposes of subsection (a)(1)
23 shall include—

24 (1) the relative universality of coverage afforded
25 State residents under the State reform plan;

1 (2) the scope of benefits offered under such
2 plan; and

3 (3) the extent of financing supporting such
4 plan.

5 (c) SUBMISSION OF PLAN TO CONGRESS.—The Sec-
6 retary may implement a pilot program under section 202
7 only after—

8 (1) the Secretary has submitted a report to the
9 Committees on Veterans' Affairs of the Senate and
10 House of Representatives on the proposed plan, as
11 specified in subsection (d); and

12 (2) a period of 30 days during which Congress
13 has been in continuous session has elapsed since
14 submission of the report under paragraph (1).

15 For purposes of paragraph (2), continuity of a session of
16 Congress is broken only by adjournment sine die, and
17 there shall be excluded from the computation of such 30-
18 day period any day during which either House of Congress
19 is not in session during an adjournment of more than
20 three days to a day certain.

21 (d) MATTERS TO BE INCLUDED IN REPORT.—Each
22 report under subsection (c) shall include the following:

23 (1) A detailed description of the rationale (as it
24 relates to the determinations described in sub-
25 sections (a)(1) and (g) of this section) for proposed

1 participation in the State reform plan which shall
2 specifically address the determinations under such
3 provisions.

4 (2) A description of the extent to which applica-
5 ble provisions of State law specifically accommodate
6 and facilitate participation by the Department in the
7 State reform plan.

8 (3) A detailed business plan for the Depart-
9 ment's participation under the State reform plan.

10 (4) A description of the actions the Secretary
11 has taken to consult with veterans on the Depart-
12 ment's proposed participation in such State reform
13 plan.

14 (e) EXEMPTION OF HIGH-PRIORITY VETERANS
15 FROM PREMIUMS, ETC.—A veteran described in section
16 1710(a)(1) of title 38, United States Code, who receives
17 health care services from the Secretary under a pilot pro-
18 gram under this title incurs no liability to pay a premium,
19 deductible, copayment, or other charge in connection with
20 (1) receiving the hospital care services the veteran is eligi-
21 ble for under section 1710(a)(1) of such title, and (2)
22 medical services to persons described in section 1710(a)(1)
23 of such title, subject to the limitations in section 1710(e)
24 of such title.

1 (f) RETENTION OF SPECIALIZED CAPACITIES.—In
2 carrying out the pilot programs, the Secretary shall ensure
3 that the Department maintains its capacity to provide for
4 the specialized treatment and rehabilitative needs of dis-
5 abled veterans described in section 1710(a) of title 38,
6 United States Code, including veterans with spinal cord
7 dysfunction, blindness, and mental illness.

8 (g) REQUIREMENT FOR CONSIDERATION OF USE OF
9 EXPANDED SHARING AUTHORITY.—The Secretary may
10 not make a determination under subsection (a)(1) unless
11 the Secretary has fully considered the feasibility of using
12 authority under title II of this Act.

13 **SEC. 204. FUNDING.**

14 (a) ESTABLISHMENT OF REVOLVING FUND.—There
15 is established in the Treasury of the United States a re-
16 volving fund for conduct of the pilot programs under this
17 title. Amounts in the revolving fund are available without
18 fiscal year limitation for all expenses necessary to carry
19 out the purposes of the pilot program.

20 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
21 authorized to be appropriated to the revolving fund such
22 sums as may be necessary for each of fiscal years 1995
23 through 2000 for conduct and evaluation of the pilot
24 programs.

1 (c) AUTHORIZATION TO TRANSFER CERTAIN
2 FUNDS.—(1) In addition to funds appropriated pursuant
3 to subsection (a), the Secretary may transfer to the revolving
4 fund authorized by subsection (a) funds from the Medical
5 Care Appropriation Account and the Construction Ap-
6 propriation Accounts of the Department for any fiscal
7 year when the Secretary determines such transfer is nec-
8 essary to carry out the purposes of the pilot program.

9 (2) The authority in paragraph (1) shall apply only
10 with respect to amounts appropriated after the date of the
11 enactment of this Act.

12 (d) AUTHORIZED DISBURSEMENTS.—(1) Notwith-
13 standing any other provision of law, the Secretary, subject
14 to paragraph (2), may make disbursements from the re-
15 volving fund established under subsection (a) as the Sec-
16 retary considers necessary to carry out the purposes of
17 the pilot programs and their evaluation. Such disburse-
18 ments may be made to furnish medical care and services,
19 or for the acquisition, construction, repair, or renovation
20 of facilities (including the land on which facilities are lo-
21 cated or to be constructed) necessary to carry out the pilot
22 program, and for conducting consumer surveys, printing,
23 marketing, and advertising (including contracts for such
24 services).

1 (2) Funds in the revolving fund shall not be available
2 for a major medical facility project, or a major medical
3 facility lease, as defined in section 8104(a)(3) of title 38,
4 United States Code, unless funds for such project or lease
5 have been specifically authorized by law.

6 (e) RECEIPT OF FUNDS.—(1) Notwithstanding any
7 other provision of law, the Secretary may recover or collect
8 funds by reason of the furnishing of health care under a
9 pilot program authorized under section 202 in the same
10 manner as any other health-care provider or plan operat-
11 ing in the State, whether such funds are received from
12 an individual, another agency or department of the United
13 States, an agency of State or local government, a health-
14 care provider, health care plan, insurer, or other entity
15 (including amounts received as premiums, copayments,
16 deductibles, or third-party reimbursements). Any such
17 funds so received shall be deposited to the revolving fund.

18 (2) Any such funds so received and deposited, the re-
19 covery or collection of which is authorized in section
20 1729(a) of title 38, United States Code, as in effect on
21 February 1, 1994, shall be administered in accordance
22 with paragraph (3).

23 (3) Funds recovered or collected by the Department
24 pursuant to section 1729(a) of title 38, United States
25 Code, during any fiscal year in an amount in excess of

1 the current Congressional Budget Office baseline for re-
2 cepts under that section for that fiscal year shall not be
3 subject to section 1729(g)(2) of such title, to the extent
4 those funds are attributable to the operation of a pilot pro-
5 gram under this title.

6 (f) CHECKING ACCOUNTS.—The Secretary may es-
7 tablish and maintain checking and savings accounts in any
8 Federal Reserve Bank, any depository for public funds,
9 or in such other places and in such manner as the Sec-
10 retary determines appropriate in connection with the re-
11 volving fund established under subsection (a). The Sec-
12 retary may disburse funds from any such account in such
13 manner as the Secretary considers necessary to carry out
14 the purposes of the pilot programs associated with those
15 funds.

16 (g) TRANSFER OF EXCESS FUNDS TO TREASURY.—
17 If the Secretary determines that moneys in the revolving
18 fund established under subsection (a) are in excess of the
19 needs of the pilot program, the Secretary shall transfer
20 the excess funds to the Medical Care Appropriation
21 account of the Department.

22 **SEC. 205. ADMINISTRATIVE FLEXIBILITY.**

23 The Secretary, when the Secretary considers it nec-
24 essary to carry out a pilot program authorized under
25 section 202, may—

1 (1) carry out administrative reorganizations,
2 subject to section 203(f) of this title, without regard
3 to section 510(b) of title 38, United States Code;

4 (2) when the Secretary finds it is cost-effective
5 or necessary in order to provide health care services
6 in a timely manner, enter into contracts—

7 (A) for procurement of any commercially
8 available item at a cost of under \$100,000
9 without regard to any provision of law or regu-
10 lation (i) requiring competitive procedures; (ii)
11 mandating or giving priority to any source of
12 supply; or (iii) pertaining to protests; and

13 (B) without regard to the provisions of sec-
14 tion 8110(c) of title 38, United States Code;

15 (3) carry out consumer-survey, promotional, ad-
16 vertising, and marketing activities related to estab-
17 lishing and operating a health plan; and

18 (4) exercise the authority established in title
19 III.

20 **SEC. 206. ANNUAL REPORTS TO CONGRESS.**

21 Not later than November 30 of each year from 1995
22 through 2000, the Secretary shall submit to the Commit-
23 tees on Veterans' Affairs of the Senate and House of Rep-
24 resentatives a report on the Department's experience in
25 carrying out the provisions of this title and the findings

1 or interim findings of evaluations carried out under sec-
2 tion 203(a)(3). Each such report shall include information
3 regarding the effect on Department health care delivery
4 and operations in each State in which a State reform plan
5 has been implemented and shall specifically identify each
6 transfer of funds under section 204(c) and account specifi-
7 cally for the use of such funds.

8 **SEC. 207. EXPIRATION OF AUTHORITY.**

9 The authority to conduct pilot programs under this
10 title shall expire on September 30, 2000.

11 **TITLE III—HEALTH CARE**
12 **RESOURCE AGREEMENTS**

13 **SEC. 301. AUTHORITY IN STATES WITH STATE REFORM**
14 **PLANS.**

15 (a) IN GENERAL.—The director of a Department of
16 Veterans Affairs' health care facility serving veterans who
17 reside in a State that has established a State reform plan
18 may, without regard to section 1703 of title 38, United
19 States Code, or any other law or regulation pertaining to
20 competitive procedures, acquisition procedures or policies
21 (other than contract dispute settlement procedures), or bid
22 protests, enter into agreements with health care plans, in-
23 surers, and health care providers, and with any other en-
24 tity or individual, to furnish or obtain any health-care re-

1 source, as that term is defined in section 8152 of title 38,
2 United States Code.

3 (b) LIMITATION.—A director may enter into an
4 agreement under subsection (a) only if the director has
5 determined that the agreement is necessary to maintain
6 an acceptable level and quality of service to veterans at
7 that facility.

8 **SEC. 302. REIMBURSEMENT METHODOLOGY.**

9 An agreement under section 301 shall provide for re-
10 imbursement to the Department based on a methodology
11 that provides appropriate flexibility to establish an appro-
12 priate reimbursement rate. Any proceeds to the Govern-
13 ment received from the agreement shall be credited to the
14 applicable Department medical appropriation and to funds
15 that have been allotted to the facility that furnished the
16 resource involved.

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