

Union Calendar No. 268

103D CONGRESS
2D SESSION

H. R. 4013

[Report No. 103-477]

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.

APRIL 14, 1994

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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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

APRIL 14, 1994

Additional sponsors: Mr. BISHOP, Mr. KREIDLER, Mr. WILLIAMS, Ms. BROWN of Florida, Mr. SANDERS, Mr. SANGMEISTER, Mr. STEARNS, Mr. HUTCHINSON, Mr. BILIRAKIS, Mr. EVERETT, Mr. QUINN, Mr. HEFNER, Mr. RICHARDSON, Mr. STENHOLM, Mr. PAYNE of Virginia, and Mr. PARKER

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[Omit the part struck through and insert the part printed in italic]

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
5 Programs Improvement Act of 1994”.

6 **TITLE I—VETERANS HEALTH AD-**
7 **MINISTRATION STAFFING**
8 **LEVELS**

9 **SEC. 101. FINDINGS.**

10 The Congress makes the following findings:

11 (1) Under proposals for national health care re-
12 form, the Department of Veterans Affairs would be
13 required to establish an enrollment system for veter-
14 ans and to provide health care on a competitive basis
15 with other, private health care providers.

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

23 (3) The Office of Management and Budget, as
24 part of an announced plan to require a reduction

1 over five years of 252,000 FTEE positions in the
2 executive branch, proposes to require reductions of
3 FTEE positions totaling 25,493 in personnel of the
4 Veterans Health Administration, a reduction in per-
5 sonnel which would severely impede the ability of the
6 Department of Veterans Affairs to implement na-
7 tional health care reform and to meet the respon-
8 sibilities of the Department under existing law.

9 **SEC. 102. EMPLOYMENT LEVEL IN VETERANS HEALTH AD-**
10 **MINISTRATION.**

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

14 **“§ 713. Full-time equivalent employees: limitation on**
15 **reduction**

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

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

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

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

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

11 **SEC. 103. REPORT ON STREAMLINING.**

12 Not later than January 15, 1995, the Secretary of
13 Veterans Affairs shall submit to the Committees on Veter-
14 ans’ Affairs of the Senate and House of Representatives
15 a report on streamlining activities in the Veterans Health
16 Administration. The report shall include a description
17 of—

18 (1) opportunities to improve the efficiency and
19 effectiveness of delivery of health care services in the
20 Veterans Health Administration through consolida-
21 tion, reorganization, or other means;

22 (2) plans and actions taken to realize such effi-
23 ciencies; and

24 (3) impediments to implementing particular
25 plans.

1 **TITLE II—PILOT PROGRAMS**

2 **SEC. 201. SHORT TITLE.**

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

5 **SEC. 202. PILOT PROGRAM AUTHORITY.**

6 (a) **IN GENERAL.**—Subject to section 203, the Sec-
7 retary of Veterans Affairs may establish and operate a
8 pilot program under this Act in up to five States which
9 have established a State reform plan.

10 (b) **STATE REFORM PLANS.**—For purposes of this
11 Act, a State reform plan shall be considered to have been
12 established in a State if the Secretary determines that the
13 State has enacted legislation that is intended, at least in
14 part, to provide residents of that State who lack, or have
15 inadequate, health insurance coverage access to health
16 care services.

17 (c) **AUTHORITY OF SECRETARY UNDER PILOT PRO-**
18 **GRAM.**—Notwithstanding any other law, the Secretary, in
19 carrying out a pilot program in a State under this title,
20 may do the following:

21 (1) Provide health-care services on the same or
22 similar basis as the State reform plan mandates to
23 veterans, members of the family of a veteran who
24 participates in the pilot program, and individuals de-
25 scribed in section 1713(a) of title 38, United States

1 Code, including the establishment of one or more
2 health plans in that State through Department of
3 Veterans Affairs health care facilities in the State
4 and the implementation of an enrollment option for
5 eligible beneficiaries.

6 (2) Comply with such requirements of State law
7 applicable to the establishment and operation of a
8 health plan under a State reform plan, or to func-
9 tioning as a participant in, member of, or contractor
10 to, such a health plan, as the Secretary considers
11 appropriate for application to a Federal department.

12 (3) Conduct the pilot program in some or all
13 Department of Veterans Affairs health-care facilities
14 located in the State.

15 (4) Establish such catchment areas for enroll-
16 ment in the pilot programs as the Secretary deter-
17 mines appropriate.

18 **SEC. 203. CONDITIONS OF PARTICIPATION.**

19 (a) IN GENERAL.—The Secretary may establish and
20 operate a pilot program in a State under section 202 only
21 if—

22 (1) the Secretary has determined, based on
23 such factors as the Secretary considers relevant
24 (which shall include the factors specified in sub-
25 section (b)) that, in the absence of an enrollment op-

1 tion through a Department of Veterans Affairs plan
2 in that State, the projected workload in one or more
3 Department of Veterans Affairs health care facilities
4 in the State would decline to a level that—

5 (A) would threaten to impair the capability
6 of those facilities to meet one or more assigned
7 mission of those facilities; or

8 (B) would result in a deterioration in the
9 quality of service-delivery to a degree that it
10 would not be reasonable to continue to provide
11 a needed service or services in such facility or
12 facilities and satisfactory alternative arrange-
13 ments could not feasibly be provided;

14 (2) the Secretary has taken action to ensure
15 that in designing and establishing a health plan
16 under the pilot program, provisions are made, to the
17 extent feasible, for the applicability and compatibil-
18 ity of the components of the plan with other Depart-
19 ment health care facilities that are not participants
20 in the pilot program in that State; ~~and~~

21 (3) the Secretary has provided for an evaluation
22 of the pilot program to assess (A) appropriate meas-
23 ures of (i) access to service, (ii) cost of care, (iii)
24 quality of service to patients, and (iv) quality of
25 care, (B) the ability of such plans to attract enroll-

1 ees, and (C) such other matters as the Secretary de-
2 termines appropriate.; *and*

3 (4) *the Secretary has required the director of*
4 *each medical center that is to participate in the pilot*
5 *program to establish, and to consult regularly with,*
6 *a committee, which shall include veteran and other*
7 *patient representatives, regarding the delivery of serv-*
8 *ices and conduct of the pilot program.*

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

12 (1) the relative universality of coverage afforded
13 State residents under the State reform plan;

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

16 (3) the extent of financing supporting such
17 plan.

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

21 (1) the Secretary has submitted a report to the
22 Committees on Veterans' Affairs of the Senate and
23 House of Representatives on the proposed plan, as
24 specified in subsection (d); and

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

4 For purposes of paragraph (2), continuity of a session of
5 Congress is broken only by adjournment sine die, and
6 there shall be excluded from the computation of such 30-
7 day period any day during which either House of Congress
8 is not in session during an adjournment of more than
9 three days to a day certain.

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

12 (1) A detailed description of the rationale (as it
13 relates to the determinations described in sub-
14 sections (a)(1) and (g) of this section) for proposed
15 participation in the State reform plan which shall
16 specifically address the determinations under such
17 provisions.

18 (2) A description of the extent to which applica-
19 ble provisions of State law specifically accommodate
20 and facilitate participation by the Department in the
21 State reform plan.

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

24 (4) A description of the actions the Secretary
25 has taken to consult with veterans on the Depart-

1 ment’s proposed participation in such State reform
2 plan.

3 (e) EXEMPTION OF HIGH-PRIORITY VETERANS
4 FROM PREMIUMS, ETC.—A veteran described in section
5 1710(a)(1) of title 38, United States Code, who receives
6 health care services from the Secretary under a pilot pro-
7 gram under this title incurs no liability to pay a premium,
8 deductible, copayment, or other charge in connection with
9 (1) receiving the hospital care services the veteran is eligi-
10 ble for under section 1710(a)(1) of such title, and (2)
11 medical services to persons described in section 1710(a)(1)
12 of such title, subject to the limitations in section 1710(e)
13 of such title.

14 (f) RETENTION OF SPECIALIZED CAPACITIES.—In
15 carrying out the pilot programs, the Secretary shall ensure
16 that the Department maintains its capacity to provide for
17 the specialized treatment and rehabilitative needs of dis-
18 abled veterans described in section 1710(a) of title 38,
19 United States Code, including veterans with spinal cord
20 dysfunction, blindness, and mental illness.

21 (g) REQUIREMENT FOR CONSIDERATION OF USE OF
22 EXPANDED SHARING AUTHORITY.—The Secretary may
23 not make a determination under subsection (a)(1) unless
24 the Secretary has fully considered the feasibility of using
25 authority under title H *III* of this Act.

1 **SEC. 204. FUNDING.**

2 (a) ESTABLISHMENT OF REVOLVING FUND.—There
3 is established in the Treasury of the United States a re-
4 volving fund for conduct of the pilot programs under this
5 title. ~~Amounts~~ *Subject to subsection (e), amounts* in the re-
6 volving fund are available without fiscal year limitation for
7 all expenses necessary to carry out the purposes of the
8 pilot program.

9 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
10 authorized to be appropriated to the revolving fund such
11 sums as may be necessary for each of fiscal years 1995
12 through 2000 for conduct and evaluation of the pilot
13 programs.

14 (c) AUTHORIZATION TO TRANSFER CERTAIN
15 FUNDS.—(1) In addition to funds appropriated pursuant
16 to subsection (a), the Secretary may transfer to the revolv-
17 ing fund authorized by subsection (a) funds from the Med-
18 ical Care Appropriation Account and the Construction Ap-
19 propriation Accounts of the Department for any fiscal
20 year when the Secretary determines such transfer is nec-
21 essary to carry out the purposes of the pilot program.

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

25 (d) AUTHORIZED DISBURSEMENTS.—(1) Notwith-
26 standing any other provision of law, the Secretary, subject

1 to paragraph (2) *and to subsection (e)*, may make disburse-
2 ments from the revolving fund established under sub-
3 section (a) as the Secretary considers necessary to carry
4 out the purposes of the pilot programs and their evalua-
5 tion. Such disbursements may be made to furnish medical
6 care and services, or for the acquisition, construction, re-
7 pair, or renovation of facilities (including the land on
8 which facilities are located or to be constructed) necessary
9 to carry out the pilot program, and for conducting
10 consumer surveys, printing, marketing, and advertising
11 (including contracts for such services).

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

17 (e) RECEIPT OF FUNDS.—(1) Notwithstanding any
18 other provision of law, the Secretary may recover or collect
19 funds by reason of the furnishing of health care under a
20 pilot program authorized under section 202 in the same
21 manner as any other health-care provider or plan operat-
22 ing in the State, whether such funds are received from
23 an individual, another agency or department of the United
24 States, an agency of State or local government, a health-
25 care provider, health care plan, insurer, or other entity

1 (including amounts received as premiums, copayments,
2 deductibles, or third-party reimbursements). Any such
3 funds so received shall be deposited to the revolving fund.

4 ~~(2) Any such funds so received and deposited, the re-~~
5 ~~covery or collection of which is authorized in section~~
6 ~~1729(a) of title 38, United States Code, as in effect on~~
7 ~~February 1, 1994, shall be administered in accordance~~
8 ~~with paragraph (3).~~

9 ~~(3) Funds recovered or collected by the Department~~
10 ~~pursuant to section 1729(a) of title 38, United States~~
11 ~~Code, during any fiscal year in an amount in excess of~~
12 ~~the current Congressional Budget Office baseline for re-~~
13 ~~ceipts under that section for that fiscal year shall not be~~
14 ~~subject to section 1729(g)(2) of such title, to the extent~~
15 ~~those funds are attributable to the operation of a pilot pro-~~
16 ~~gram under this title.~~

17 *(2) Any such funds received under paragraph (1),*
18 *other than funds for which recovery could have been accom-*
19 *plished under section 1710(f), 1712(f), 1722A, or 1729(a)*
20 *of title 38, United States Code, shall be deposited in the*
21 *revolving fund. Funds for which recovery could have been*
22 *accomplished under any of those sections shall be deposited*
23 *in the Medical-Care Cost Recovery Fund established under*
24 *section 1729(g) of that title.*

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

13 (f) CHECKING ACCOUNTS.—The Secretary may es-
14 tablish and maintain checking and savings accounts in any
15 ~~Federal Reserve Bank, any depository for public funds,~~
16 *depository for public funds* or in such other places and in
17 such manner as the Secretary determines appropriate in
18 connection with the revolving fund established under sub-
19 section (a). ~~The~~ *Subject to subsection (e), the* Secretary
20 may disburse funds from any such account in such manner
21 as the Secretary considers necessary to carry out the pur-
22 poses of the pilot programs associated with those funds.

23 (g) TRANSFER OF EXCESS FUNDS TO TREASURY.—
24 If the Secretary determines that moneys in the revolving
25 fund established under subsection (a) are in excess of the

1 needs of the pilot program, the Secretary shall transfer
2 the excess funds to the Medical Care Appropriation
3 account of the Department.

4 **SEC. 205. ADMINISTRATIVE FLEXIBILITY.**

5 The Secretary, when the Secretary considers it nec-
6 essary to carry out a pilot program authorized under
7 section 202, may—

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

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

14 (A) for procurement of any commercially
15 available item at a cost of under \$100,000
16 without regard to any provision of law or regu-
17 lation (i) requiring competitive procedures; (ii)
18 mandating or giving priority to any source of
19 supply; or (iii) pertaining to protests; and

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

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

1 (4) exercise the authority established in title
2 III.

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

4 Not later than November 30 of each year from 1995
5 through 2000, the Secretary shall submit to the Commit-
6 tees on Veterans' Affairs of the Senate and House of Rep-
7 resentatives a report on the Department's experience in
8 carrying out the provisions of this title and the findings
9 or interim findings of evaluations carried out under sec-
10 tion 203(a)(3). Each such report shall include information
11 regarding the effect on Department health care delivery
12 and operations in each State in which a State reform plan
13 has been implemented and shall specifically identify each
14 transfer of funds under section 204(c) and account specifi-
15 cally for the use of such funds.

16 **SEC. 207. EXPIRATION OF AUTHORITY.**

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

19 **TITLE III—HEALTH CARE**
20 **RESOURCE AGREEMENTS**

21 **SEC. 301. AUTHORITY IN STATES WITH STATE REFORM**
22 **PLANS.**

23 (a) IN GENERAL.—The director of a Department of
24 Veterans Affairs' health care facility serving veterans who
25 reside in a State that has established a State reform plan

1 may, without regard to section 1703 of title 38, United
2 States Code, or any other law or regulation pertaining to
3 competitive procedures, acquisition procedures or policies
4 (other than contract dispute settlement procedures), or bid
5 protests, enter into agreements with health care plans, in-
6 surers, and health care providers, and with any other en-
7 tity or individual, to furnish or obtain any health-care re-
8 source, as that term is defined in section 8152 of title 38,
9 United States Code.

10 (b) LIMITATION.—A director may enter into an
11 agreement under subsection (a) only if the director has
12 determined that the agreement *to furnish services* is nec-
13 essary to maintain an acceptable level and quality of serv-
14 ice to veterans at that facility.

15 **SEC. 302. REIMBURSEMENT METHODOLOGY.**

16 An agreement under section 301 shall provide for re-
17 imbursement to the Department based on a methodology
18 that provides appropriate flexibility to establish an appro-
19 priate reimbursement rate. Any proceeds to the Govern-
20 ment received from the agreement shall be credited to the
21 applicable Department medical appropriation and to funds
22 that have been allotted to the facility that furnished the
23 resource involved.

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