

104TH CONGRESS
2D SESSION

H. R. 3119

To amend title 38, United States Code, to revise and improve eligibility for medical care and services under that title, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 20, 1996

Mr. MONTGOMERY (by request) introduced the following bill; which was referred to the Committee on Veterans' Affairs, and in addition to the Committees on Ways and Means, and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title 38, United States Code, to revise and improve eligibility for medical care and services under that title, 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. ELIGIBILITY FOR CARE AND SERVICES OF**
4 **CATASTROPHICALLY DISABLED VETERANS.**

5 (a) ELIGIBILITY.—Paragraph (1) of subsection (a) of
6 section 1710 of title 38, United States Code, is amended—

7 (1) by striking out “and” at the end of sub-
8 paragraph (H);

1 (2) by striking out the period at the end of sub-
2 paragraph (I) and inserting in lieu thereof “; and”;
3 and

4 (3) by adding at the end the following:

5 “(J) to a veteran who is catastrophically dis-
6 abled, for any purpose that the Secretary determines
7 medically necessary.”.

8 (b) DEFINITION.—Such subsection is further amend-
9 ed by adding at the end the following:

10 “(4) For the purposes of this subsection, the term
11 ‘veteran who is catastrophically disabled’ means any vet-
12 eran in any year in which the expenditures of the veteran
13 for hospital care and nursing home care exceeds the
14 amount equal to 7.5 percent of the gross adjusted income
15 of the veteran for Federal income tax purposes during the
16 preceding year.”.

17 **SEC. 2. ELIGIBILITY FOR OUTPATIENT SERVICES.**

18 (a) ELIGIBILITY.—Subsection (a) of section 1712 of
19 title 38, United States Code, is amended—

20 (1) by striking out paragraphs (1) through (3)
21 and inserting in lieu thereof the following new para-
22 graphs (1) and (2):

23 “(a)(1) The Secretary shall furnish on an ambulatory
24 or outpatient basis such medical services as the Secretary
25 determines are needed to any veteran described in sub-

1 paragraph (A), (B), (C), (D), (E), (F), (H), (I), or (J)
2 of section 1710(a)(1) of this title for a disability described
3 in the subparagraph that relates to such veteran.

4 “(2)(A)(i) Subject to subparagraphs (D) and (E) of
5 this paragraph, a veteran described in clause (ii) is eligible
6 for medical services on an ambulatory or outpatient basis
7 for any disability, notwithstanding that there is insuffi-
8 cient medical evidence to conclude that such disability may
9 be associated with the exposure of the veteran as described
10 in that clause.

11 “(ii) Clause (i) applies to any veteran—

12 “(I) who served on active duty in the Republic
13 of Vietnam during the Vietnam era; and

14 “(II) who the Secretary finds may have been
15 exposed during such service to dioxin or was exposed
16 during such service to a toxic substance found in a
17 herbicide or defoliant used in connection with mili-
18 tary purposes during such era.

19 “(B) Subject to subparagraphs (D) and (E) of this
20 paragraph, a veteran who the Secretary finds was exposed
21 while serving on active duty to ionizing radiation from the
22 detonation of a nuclear device in connection with such vet-
23 eran’s participation in the test of such a device or with
24 the American occupation of Hiroshima and Nagasaki,
25 Japan, during the period beginning on September 11,

1 1945, and ending on July 1, 1946, is eligible for medical
2 services on an ambulatory or outpatient basis for any dis-
3 ability, notwithstanding that there is insufficient medical
4 evidence to conclude that such disability may be associated
5 with such exposure.

6 “(C) Subject to subparagraphs (D) and (E) of this
7 paragraph, a veteran who the Secretary finds may have
8 been exposed while serving on active duty in the Southwest
9 Asia theater of operations during the Persian Gulf War
10 to a toxic substance or environmental hazard is eligible
11 for medical services on an ambulatory or outpatient basis
12 for any disability, notwithstanding that there is insuffi-
13 cient medical evidence to conclude that such disability may
14 be associated with such exposure.

15 “(D) Medical services may not be provided under sub-
16 paragraph (A), (B), or (C) of this paragraph with respect
17 to a disability that is found, in accordance with guidelines
18 issued by the Under Secretary for Health, to have resulted
19 from a cause other than an exposure described in such
20 subparagraph (A), (B), or (C).

21 “(E) Medical services may not be provided under or
22 by virtue of subparagraph (A), (B), or (C) of this para-
23 graph after December 31, 1996.”;

24 (2) by redesignating paragraphs (4), (5), and
25 (6) as paragraphs (3), (4), and (5), respectively;

1 (3) in paragraph (3), as so redesignated, by
 2 striking out “paragraph (5)” and inserting in lieu
 3 thereof “paragraph (4)”;

4 (4) in subparagraph (A) of paragraph (4), as so
 5 redesignated, by striking out “paragraph (4)” and
 6 inserting in lieu thereof “paragraph (3)”; and

7 (5) by striking out paragraph (7).

8 (b) REPEAL OF ORDER OF PRIORITY FOR SERV-
 9 ICES.—Such section is further amended by striking out
 10 subsection (i).

11 **SEC. 3. ELIGIBILITY FOR NURSING HOME CARE, DOMI-**
 12 **CILIARY CARE, AND LONG-TERM CARE.**

13 (a) ELIGIBILITY.—Section 1710(a) of title 38, Unit-
 14 ed States Code, as amended by section 1 of this Act, is
 15 further amended by adding at the end the following:

16 “(5) The Secretary shall furnish nursing home care,
 17 domiciliary care, or long-term care to any veteran de-
 18 scribed in paragraph (1) of this subsection if the Secretary
 19 determines that the furnishing of such care to the veteran
 20 is necessary for medical purposes or to obviate the need
 21 for hospital care under this section.”.

22 (b) DEFINITION OF LONG-TERM CARE.—Section
 23 1701 of such title is amended by adding at the end the
 24 following:

1 “(10) The term ‘long-term care’ means home
 2 care, home services, adult day health care, respite
 3 care (as such term is defined in section 1720B(b) of
 4 this title), and community residential care (including
 5 care under the services authorized in section
 6 1720C(a) of this title).”.

7 **SEC. 4. AUTHORITY TO PROVIDE HEALTH CARE SERVICES**
 8 **TO ADULT DEPENDENTS OF VETERANS IN DE-**
 9 **PARTMENT FACILITIES.**

10 (a) **AUTHORITY.**—Subsection (a)(2) of section 1710
 11 of title 38, United States Code, is amended—

12 (1) by inserting “(A)” after “(2)”; and

13 (2) by adding at the end the following:

14 “(B) The Secretary may, to the extent resources and
 15 facilities are available, furnish hospital care and nursing
 16 home care to any adult dependent of a veteran which the
 17 Secretary determines is needed for a disability, subject to
 18 the provisions of subsection (f) of this section.”.

19 (b) **PAYMENT FOR CARE.**—Paragraph (1) of sub-
 20 section (f) of such section is amended—

21 (1) by inserting “(A)” after “(f)(1)”; and

22 (2) by adding at the end the following:

23 “(B) The Secretary may not furnish hospital care or
 24 nursing home care under this section to any adult depend-
 25 ent of a veteran who is eligible for such care under sub-

1 section (a)(2)(B) of this section unless the adult depend-
 2 ent agrees to pay the United States the applicable amount
 3 determined under paragraph (2) of this subsection. An
 4 adult dependent shall be treated as a veteran for the pur-
 5 poses of the application of such paragraph to the adult
 6 dependent by reason of this subparagraph.”.

7 (c) UTILIZATION OF PAYMENTS FOR CARE.—Para-
 8 graph (4) of such subsection (f) is amended to read as
 9 follows:

10 “(4) Amounts collected or received by the United
 11 States under this subsection shall be available to the Sec-
 12 retary for payment of the costs of furnishing care and
 13 services under this section. Such amounts shall be avail-
 14 able without fiscal year limitation.”.

15 **SEC. 5. AUTHORITY TO PROVIDE PRIMARY HEALTH CARE**
 16 **SERVICES.**

17 (a) IN GENERAL.—Paragraph (6)(A)(i) of section
 18 1701 of title 38, United States Code, is amended by in-
 19 serting “primary health care services,” after “preventive
 20 health services,”.

21 (b) DEFINITION.—Such section, as amended by sec-
 22 tion 3(b) of this Act, is further amended by adding at the
 23 end the following:

24 “(11) The term ‘primary health care services’
 25 includes—

“(A) initial diagnostic services (including laboratory services, x-ray services, and pharmacy services), treatment services, referral to specialized care or services, and long-term follow-up care or services with respect to chronic conditions which services, referral, and care or services are provided on an ambulatory basis by physicians (including general and family practitioners, pediatricians, obstetrician/gynecologists, and internists) or by nurse practitioners or physician’s assistants under the supervision of physicians; and

“(B) routine services with respect to disabilities that are provided by physicians who specialize in such disabilities.”.

SEC. 6. CLARIFICATION OF AUTHORITY TO PROVIDE PREVENTIVE HEALTH SERVICES.

Section 1701(6)(A)(i) of title 38, United States Code, as amended by section 5, is further amended by striking out “(in the case of a person otherwise receiving care or services under this chapter)”.

1 **SEC. 7. AUTHORITY TO CONTRACT FOR PRIMARY HEALTH**
2 **CARE SERVICES AND PREVENTIVE HEALTH**
3 **SERVICES IN NON-DEPARTMENT FACILITIES.**

4 (a) REPEAL OF REPORTING REQUIREMENT.—Sec-
5 tion 1703 of title 38, United States Code, is amended by
6 striking out subsection (c).

7 (b) AUTHORITY TO CONTRACT.—Such section is fur-
8 ther amended—

9 (1) by redesignating subsection (b) as sub-
10 section (c); and

11 (2) by inserting after subsection (a) the follow-
12 ing new subsection (b):

13 “(b)(1) Subject to paragraph (2), the Secretary may
14 furnish primary health care services or preventive health
15 services under section 1712 of this title to veterans who
16 reside in locations that are more than 50 miles or 1 hour
17 traveling time from a Department facility furnishing such
18 services by or through contract with non-Department fa-
19 cilities.

20 “(2) The Secretary may contract with a non-Depart-
21 ment facility under paragraph (1) of this subsection only
22 if the Secretary determines through sound analysis that—

23 “(A) the quality of the services to be provided
24 by the non-Department facility under the contract is
25 equal to or exceeds the quality of the services that

1 would otherwise be provided by a Department facil-
2 ity in the absence of the contract; and

3 “(B) the cost of furnishing the services by con-
4 tract through the non-Department facility will be
5 equal to or less than the cost of furnishing the serv-
6 ices through a Department facility.”.

7 **SEC. 8. REVISION OF AUTHORITY TO PROVIDE PROSTHETIC**
8 **APPLIANCES.**

9 (a) DEFINITION OF MEDICAL SERVICES.—Section
10 1701(6)(A)(i) of title 38, United States Code, as amended
11 by this Act, is further amended by striking out “and (ex-
12 cept under the conditions” and all that follows through
13 “prosthetic appliances,” and inserting in lieu thereof
14 “medical equipment and prosthetic appliances that are
15 prescribed by a physician based on specific medical
16 needs,”.

17 (b) AUTHORITY TO PROVIDE.—(1) Section 1714 of
18 title 38, United States Code, is amended to read as fol-
19 lows:

20 **“§1714. Medical equipment and prosthetic appli-**
21 **ances; aids for the blind and the hearing**
22 **impaired**

23 “(a) The Secretary shall furnish medical equipment
24 or a prosthetic appliance to any veteran who is entitled
25 to such equipment or appliance.

1 “(b)(1) The Secretary shall furnish any veteran fur-
2 nished medical equipment or a prosthetic appliance under
3 subsection (a) with such fitting and training in the use
4 of the equipment or appliance as the Secretary determines
5 necessary.

6 “(2) The Secretary may furnish training to a veteran
7 under this subsection in a Department facility or by con-
8 tract (including by contract with a training institution)
9 and may include in connection with such training travel
10 and incidental expenses (under the terms and conditions
11 set forth in section 111 of this title) to and from the home
12 of the veteran to the facility or institution at which the
13 training is furnished.

14 “(c) The Secretary may furnish any veteran fur-
15 nished medical equipment or a prosthetic appliance under
16 subsection (a) with special clothing made necessary by the
17 wearing of the medical equipment or appliance.

18 “(d) The Secretary may repair or replace any medical
19 equipment or prosthetic appliances reasonably necessary
20 to a veteran and belonging to the veteran which are dam-
21 aged or destroyed by a fall or other accident caused by
22 a service-connected disability for which the veteran is in
23 receipt of, or but for the receipt of retirement pay would
24 be entitled to, disability compensation.

1 “(e)(1) The Secretary may furnish veterans who are
2 entitled to disability compensation with the following:

3 “(A) Seeing-eye or guide dogs trained for the
4 aid of the blind.

5 “(B) Devices for aiding individuals in over-
6 coming the handicap of blindness.

7 “(2) In furnishing a seeing-eye or guide dog to a vet-
8 eran under this subsection, the Secretary may furnish
9 training described in subsection (b)(2), including travel ex-
10 penses, to the veteran in the use of the dog.

11 “(f) The Secretary may furnish devices for assisting
12 in overcoming the handicap of deafness, including
13 telecaptioning decoding devices for television receivers, to
14 veterans who are profoundly deaf and entitled to disability
15 compensation on account of hearing impairment.”.

16 (2) The table of sections at the beginning of chapter
17 17 of such title is amended by striking out the item relat-
18 ing to section 1714 and inserting in lieu thereof the follow-
19 ing new item:

“1714. Medical equipment and prosthetic appliances; aids for the blind and the
hearing impaired.”.

20 (b) CONFORMING AMENDMENTS.—(1) Section 1717
21 of title 38, United States Code, is amended—

22 (A) by striking out subsections (b) and (c);

23 (B) by striking out “(a)(1)” and inserting in
24 lieu thereof “(a)”;

1 (C) by redesignating paragraphs (2) and (3) as
 2 subsections (b) and (c), respectively; and

3 (D) in subsection (b), as so redesignated, by re-
 4 designating subparagraphs (A) and (B) as para-
 5 graphs (1) and (2), respectively.

6 (2)(A) Section 1719 of title 38, United States Code,
 7 is repealed.

8 (B) The table of sections at the beginning of chapter
 9 17 of such title is amended by striking out the item relat-
 10 ing to section 1719.

11 **SEC. 9. UTILIZATION OF MEDICAL CARE COST RECOVERY**

12 **FUND FOR PAYMENT OF COSTS OF FURNISH-**
 13 **ING HEALTH CARE SERVICES.**

14 (a) IN GENERAL.—Paragraph (4) of section 1729(g)
 15 of title 38, United States Code, is amended to read as
 16 follows:

17 “(4)(A) Not later than January 1 of each year, there
 18 shall be available to the Secretary for the purposes de-
 19 scribed in subparagraph (C) an amount equal to the excess
 20 of the amount of the unobligated balance remaining in the
 21 Fund at the close of business on September 30 of the pre-
 22 ceding year over the amount described in subparagraph
 23 (B).

24 “(B) The amount described in this subparagraph is
 25 the amount equal to—

1 “(i) the amount of the unobligated balance re-
2 maining in the Fund at the close of business on Sep-
3 tember 30 of the preceding year that the Secretary
4 determines is necessary in order to enable to defray,
5 during the fiscal year in which the amount is avail-
6 able under this paragraph, expenses, payments, and
7 costs described in paragraph (3), plus

8 “(ii) the amount of such balance that is equal
9 to the amount of the Congressional Budget Office
10 baseline for deposits in the Fund for such fiscal
11 year.

12 “(C) Amounts available under subparagraph (A)
13 shall be available to the Secretary for payment of the costs
14 of furnishing hospital care and medical services under this
15 chapter, including the costs of salaries of personnel of the
16 Department who furnish such care and services. Such
17 amounts shall be available without fiscal year limitation.”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 subsection (a) shall take effect on the date of the enact-
20 ment of this Act and apply to amounts in the Medical-
21 Care Cost Recovery Fund under section 1729(g) of title
22 38, United States Code, at the close of business on Sep-
23 tember 30, 1996.

1 **SEC. 10. AUTHORITY FOR REIMBURSEMENT BY MEDICARE**
2 **OF CERTAIN HEALTH CARE SERVICES PRO-**
3 **VIDED BY DEPARTMENT FACILITIES.**

4 (a) AUTHORITY.—(1) Subchapter III of chapter 17
5 of title 38, United States Code, is amended by inserting
6 after section 1729 the following new section:

7 **“§ 1729A. Medicare coverage and reimbursement**

8 “(a) A Department facility shall be eligible to partici-
9 pate under title XVIII of the Social Security Act (42
10 U.S.C. 1395 et seq.) as a provider of services and shall
11 be eligible for payments under such title if such facility
12 files an agreement with the Secretary of Health and Hu-
13 mans Services under section 1866 of the Social Security
14 Act (42 U.S.C. 1395cc).

15 “(b)(1) In the case of care or services provided under
16 this chapter to an individual described in paragraph
17 (2)(A) by a Department facility, the Secretary of Health
18 and Human Services shall reimburse the Department fa-
19 cility in the same amounts and under the same terms and
20 conditions as that Secretary reimburses other providers of
21 such care and services under title XVIII of such Act with
22 respect to such individual.

23 “(2)(A) Paragraph (1) applies to any veteran or adult
24 dependent of a veteran who is described in section
25 1710(a)(2) of this title and who is medicare eligible.

1 “(B) For purposes of this paragraph, an individual
2 is medicare eligible if the individual is—

3 “(i) entitled to benefits under part A of title
4 XVIII of the Social Security Act (42 U.S.C. 1395 et
5 seq.); or

6 “(ii) enrolled under part B of such title (42
7 U.S.C. 1395j et seq.).

8 “(c) When the Secretary provides care or services to
9 an individual for which the Secretary receives reimburse-
10 ment under this section, the Secretary shall require the
11 individual to pay to the Department any applicable de-
12 ductible or copayment that is not reimbursed by the medi-
13 care program under title XVIII of the Social Security Act.

14 “(d) The Secretary shall utilize amounts received by
15 the Secretary under this section for payment of the costs
16 of furnishing care and services under this chapter.”.

17 (2) The table of sections at the beginning of chapter
18 17 of such title is amended by inserting after the item
19 relating to section 1729 the following:

“1729A. Medicare coverage and reimbursement.”.

20 (b) PAYMENTS UNDER PART A OF MEDICARE.—Sec-
21 tion 1814(h) of the Social Security Act (42 U.S.C.
22 1395f(c)) is amended to read as follows:

23 “Payment for Certain Services Provided in Depart-
24 ment of Veterans Affairs Facilities

1 “(h) Subject to the provisions of section 1729A of
 2 title 38, United States Code, subsection (c) shall not apply
 3 to care and services furnished under chapter 17 of such
 4 title.”.

5 (c) PAYMENTS UNDER PART B OF MEDICARE.—Sec-
 6 tion 1835(d) of the Social Security Act (42 U.S.C.
 7 1395n(d)) is amended—

8 (1) by striking “(d)” and inserting “(d)(1)”;
 9 and

10 (2) by adding at the end the following new
 11 paragraph:

12 “(2) Subject to the provisions of section 1729A of
 13 title 38, United States Code, paragraph (1) shall not apply
 14 to care and services furnished under chapter 17 of such
 15 title.”.

16 **SEC. 11. MAINTENANCE OF CAPACITY OF DEPARTMENT OF**
 17 **VETERANS AFFAIRS TO PROVIDE SPECIAL-**
 18 **IZED SERVICES TO VETERANS.**

19 In managing the provision of medical care and serv-
 20 ices by the Department of Veterans Affairs, the Secretary
 21 of Veterans Affairs shall ensure that the Department
 22 maintains its capacity to provide for the specialized treat-
 23 ment and rehabilitative needs of disabled veterans de-
 24 scribed in section 1710(a) of title 38, United States Code,
 25 including veterans with spinal cord dysfunction, blindness,

1 and mental illness, within distinct programs or facilities
2 of the Department that are dedicated to the specialized
3 needs of those veterans in a manner that—

4 (1) affords those veterans reasonable access to
5 care and services for those specialized needs; and

6 (2) ensures that overall capacity of the Depart-
7 ment to provide such services is not reduced below
8 the capacity of the Department, nationwide, to pro-
9 vide those services as of the date of the enactment
10 of this Act.

○