

105TH CONGRESS  
1ST SESSION

# H. R. 1631

To amend title 5, United States Code, to make coverage under the health benefits program for Federal employees available to military dependents and military retirees, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 15, 1997

Mr. MICA introduced the following bill; which was referred to the Committee on Government Reform and Oversight, and in addition to the Committee on National Security, 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

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## A BILL

To amend title 5, United States Code, to make coverage under the health benefits program for Federal employees available to military dependents and military retirees, 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 “Military Health Care  
5 Choice Act of 1997”.

1 **SEC. 2. ELIGIBILITY.**

2 (a) IN GENERAL.—Chapter 89 of title 5, United  
3 States Code, is amended by adding at the end the follow-  
4 ing:

5 **“§ 8915. Military dependents and military retirees**

6 “(a) EXTENSION OF COVERAGE.—The Office of Per-  
7 sonnel Management, in consultation with the appropriate  
8 Secretaries, shall take such steps as may be necessary in  
9 order to make benefits under this chapter available to mili-  
10 tary retirees, military dependents, and others, in accord-  
11 ance with this section.

12 “(b) ELECTION OF COVERAGE UNDER THIS CHAP-  
13 TER INSTEAD OF CHAPTER 55 OF TITLE 10.—

14 “(1) ELECTIONS AVAILABLE.—

15 “(A) TO AN ACTIVE DUTY MEMBER.—A  
16 member of a regular component of the Armed  
17 Forces on active duty who is entitled to medical  
18 and dental care under section 1074(a) of title  
19 10 may enroll such member’s qualified depend-  
20 ents in an approved health benefits plan de-  
21 scribed by section 8903 or 8903a, under ei-  
22 ther—

23 “(i) an enrollment for all qualified de-  
24 pendents; or

25 “(ii) a single qualified dependent en-  
26 rollment, except that such an enrollment—

1                   “(I) shall not be available unless,  
2                   at the time of enrollment, the member  
3                   has only 1 qualified dependent; and

4                   “(II) shall not be transferable.

5                   “(B) TO A MILITARY RETIREE.—A mem-  
6                   ber or former member of the Armed Forces who  
7                   is eligible for medical and dental care under  
8                   section 1074(b) of title 10 (or who would be so  
9                   eligible, but for section 1073a(b) of title 10)  
10                  may enroll in an approved health benefits plan  
11                  described by section 8903 or 8903a, either—

12                   “(i) as an individual; or

13                   “(ii) for self and all qualified depend-  
14                  ents.

15                  “(C) TO A SURVIVING DEPENDENT.—A  
16                  survivor of a member or former member under  
17                  subparagraph (A) or (B) who, at the time of  
18                  death of such member or former member, was  
19                  enrolled in an approved health benefits plan de-  
20                  scribed by section 8903 or 8903a as a qualified  
21                  dependent of such member or former member  
22                  may continue his or her enrollment under the  
23                  conditions of eligibility prescribed by regula-  
24                  tions of the Office.

1           “(D) TO A FORMER SPOUSE.—A former  
2 spouse of a member or former member under  
3 subparagraph (A) or (B) may, with respect to  
4 any period during which such former spouse  
5 would otherwise be ineligible for medical or den-  
6 tal care under chapter 55 of title 10 by reason  
7 of section 1073a(b) of such title, enroll in an  
8 approved health benefits plan described by sec-  
9 tion 8903 or 8903a, either—

10                   “(i) as an individual; or

11                   “(ii) for self and all qualified depend-  
12 ents (subject to restrictions similar to  
13 those set forth in section 8905(c)(2)(B)).

14           “(E) TO A PERSON WITH CONTINUED COV-  
15 ERAGE UNDER SECTION 1078A OF TITLE 10.—  
16 The Office, in consultation with the appropriate  
17 Secretaries, shall prescribe regulations under  
18 which an election under this section shall be  
19 available to persons to whom section 1078a of  
20 title 10 would otherwise apply.

21           “(2) CIRCUMSTANCES IN WHICH AN ELECTION  
22 IS ALLOWED OR NOT ALLOWED.—

23                   “(A) ELECTIONS ALLOWED.—An election  
24 under paragraph (1) shall be allowed—

1           “(i) during the open enrollment period  
2           immediately preceding the first contract  
3           year beginning after the end of the 12-  
4           month period beginning on the date of the  
5           enactment of the Military Health Care  
6           Choice Act of 1997 and the open enroll-  
7           ment period occurring every third year  
8           thereafter; and

9           “(ii) at such other times and under  
10          such conditions as the Office may pre-  
11          scribe.

12          “(B) ELECTIONS NOT ALLOWED.—Not-  
13          withstanding any other provision of this section,  
14          an election under paragraph (1) shall not be al-  
15          lowed if not permitted by reason of section  
16          1073a(c)(2) of title 10.

17          “(3) DEFINITION OF A QUALIFIED DEPEND-  
18          ENT.—For the purpose of this section, the term  
19          ‘qualified dependent’, as used with respect to an ac-  
20          tive duty member, a military retiree, or any other  
21          person, means an individual who—

22                 “(A) is a member of the family of such  
23                 person (as determined under regulations of the  
24                 Office similar to the provisions of section  
25                 8901(5)); and

1           “(B) would then qualify as a covered bene-  
2           ficiary under chapter 55 of title 10, if the Mili-  
3           tary Health Care Choice Act of 1997 had never  
4           been enacted.

5           “(4) DEFINITION OF A FORMER SPOUSE.—

6           “(A) IN GENERAL.—Notwithstanding sec-  
7           tion 8901(10), for purposes of this section, the  
8           term ‘former spouse’, with respect to a member  
9           or former member under paragraph (1)(A) or  
10          (B), means a former spouse of such member or  
11          former member—

12                   “(i) who has not remarried before age  
13                   55 after the marriage to the member or  
14                   former member was dissolved;

15                   “(ii) who was enrolled in an approved  
16                   health benefits plan under this chapter  
17                   based on that individual’s relationship to  
18                   such member or former member at any  
19                   time during the 18-month period before  
20                   the date of dissolution of their marriage;  
21                   and

22                   “(iii)(I) who is receiving (or is entitled  
23                   to) any portion of retired or retainer pay  
24                   under section 1408 of title 10, or of an an-  
25                   nuity under section 1450(f)(4) of title 10,

1 which is based on the service of such mem-  
2 ber or former member; or

3 “(II) as to whom an election under  
4 section 1448 of title 10 has been made by  
5 such member or former member.

6 “(B) SPECIAL RULES.—

7 “(i) IF DISSOLUTION OCCURRED BE-  
8 FORE COVERAGE UNDER THIS CHAPTER  
9 FIRST BECAME AVAILABLE.—In any in-  
10 stance in which the date of dissolution of  
11 marriage precedes the date on which elec-  
12 tions under this section first become avail-  
13 able, clause (ii) of subparagraph (A) shall  
14 be waived in the case of any individual who  
15 satisfies the requirements of subparagraph  
16 (F), (G), or (H) of section 1072(2) of title  
17 10 with respect to the member or former  
18 member involved.

19 “(ii) IF COVERAGE WAS PRECLUDED  
20 SOLELY BY LIMITATION ON TOTAL NUM-  
21 BER OF ELECTIONS ALLOWABLE UNDER  
22 THIS SECTION.—Clause (ii) of subpara-  
23 graph (A) shall be considered to have been  
24 met in the case of any individual who  
25 would have satisfied such clause, based on

1 an election properly filed under subsection  
2 (b)(1), but for the fact that such election  
3 was not allowed to take effect solely by  
4 reason of subsection (i).

5 “(c) EFFECT ON ELIGIBILITY FOR CARE UNDER  
6 TITLE 10.—

**“For provisions relating to the effect that an election under subsection (b)(1) has with respect to coverage under chapter 55 of title 10, see section 1073a(b) of such title.**

7 “(d) BENEFITS TO BE PROVIDED UNDER THIS  
8 CHAPTER.—

9 “(1) IN GENERAL.—The coverage provided to a  
10 covered beneficiary enrolled in a health benefits plan  
11 under this chapter shall—

12 “(A) if the covered beneficiary is the indi-  
13 vidual making the election of coverage under  
14 subparagraph (B), (C), (D), or (E) of sub-  
15 section (b)(1), be the same as for an employee  
16 enrolled in the same health benefits plan and  
17 level of benefits; and

18 “(B) in the case of any other covered bene-  
19 ficiary, be the same as for an individual en-  
20 rolled in the same health benefits plan and level  
21 of benefits as a family member of an employee.

22 “(2) RIGHT TO PARTICIPATE FULLY.—The Of-  
23 fice shall ensure that, to the extent feasible, once an

1 election under subsection (b)(1) is made, then, until  
2 such election is terminated, the electing individual  
3 and all covered beneficiaries of such individual (de-  
4 termined in the same manner as under section  
5 1073a(b)(1)(B) of title 10) shall remain eligible to  
6 change plans, commence or terminate coverage, and  
7 otherwise participate in the program under this  
8 chapter, to the same extent and in the same manner  
9 as employees and their family members (consistent  
10 with the requirements of this section).

11 “(e) DUAL COVERAGE NOT PERMITTED.—The Of-  
12 fice, together with the appropriate Secretaries, shall take  
13 such steps as may be necessary to prevent any instance  
14 of dual coverage (whether under this chapter alone or tak-  
15 ing chapter 55 of title 10 into account) which is not other-  
16 wise precluded by law.

17 “(f) CHARGES.—Charges for enrollments under this  
18 section shall be fixed in accordance with the following:

19 “(1) INDIVIDUAL COVERAGE.—The total  
20 charges for an individual enrollment under sub-  
21 section (b)(1) (including a single qualified dependent  
22 enrollment under subsection (b)(1)(A)(ii)) shall be  
23 the same as for an employee enrolled in the same  
24 health benefits plan and level of benefits for self  
25 alone.

1           “(2) FAMILY COVERAGE.—The total charges for  
2 any enrollment under this section, other than an en-  
3 rollment to which paragraph (1) applies, shall be the  
4 same as for an employee enrolled in the same health  
5 benefits plan and level of benefits for self and fam-  
6 ily.

7           “(g) CONTRIBUTIONS.—

8           “(1) BY AN INDIVIDUAL.—

9           “(A) IN GENERAL.—The amount necessary  
10 to pay the total charges for enrollment under  
11 this section, after the Government contribution  
12 under paragraph (2) is deducted (if any), shall  
13 be borne by the electing individual under sub-  
14 section (b)(1).

15           “(B) METHOD OF PAYMENT.—Payments  
16 under this paragraph shall be made in accord-  
17 ance with the following:

18           “(i) ACTIVE DUTY MEMBER.—If the  
19 election is made under subsection  
20 (b)(1)(A), by withholdings from pay of the  
21 electing individual.

22           “(ii) MILITARY RETIREE.—If the elec-  
23 tion is made under subsection (b)(1)(B),  
24 by withholdings from retired or retainer  
25 pay of the electing individual, subject, if

1 necessary, to arrangements similar to those  
2 under section 8906(i).

3 “(iii) OTHER CASES.—If the election  
4 is made by an individual other than an in-  
5 dividual referred to in clause (i) or (ii),  
6 under such arrangements as the Office  
7 shall prescribe.

8 “(2) BY THE GOVERNMENT.—

9 “(A) IN GENERAL.—Each of the appro-  
10 priate Secretaries may, in that Secretary’s sole  
11 discretion and for purposes of individuals under  
12 the jurisdiction of that Secretary, specify  
13 whether any Government contributions will be  
14 made toward meeting the subscription charge  
15 for coverage elected under subsection (b)(1),  
16 and, if so, at what level.

17 “(B) RESTRICTIONS.—No Government  
18 contribution under this paragraph shall be pay-  
19 able—

20 “(i) to defray any charges other than  
21 those that would otherwise be borne by an  
22 electing individual under subsection  
23 (b)(1)(A) or (B); or

24 “(ii) in an amount greater than the  
25 amount of the Government contribution

1           which would be payable under this section  
2           on behalf of an employee enrolled in the  
3           same health benefits plan and level of ben-  
4           efits—

5                       “(I) for self alone (in the case of  
6                       an enrollment to which subsection  
7                       (f)(1) applies); or

8                       “(II) for self and family (in the  
9                       case of any other enrollment).

10                      “(C) NOTICE.—A decision under subpara-  
11                      graph (A) shall be conclusive and not subject to  
12                      subchapter II of chapter 5. Notice of any such  
13                      decision shall be provided to the Office in such  
14                      time, form, and manner as the Office shall by  
15                      regulation prescribe.

16                      “(D) PROCEDURES.—Any contributions  
17                      under this paragraph shall be made under such  
18                      arrangements as may be agreed to by the Office  
19                      and the Secretary involved, and may be made  
20                      from any funds otherwise available to such Sec-  
21                      retary for such purpose.

22                      “(h) TERMINATION.—An election made by an individ-  
23                      ual under subsection (b)(1) shall terminate upon the oc-  
24                      currence of any of the following:

1           “(1) AN ELECTION TO HAVE COVERAGE UNDER  
2           TITLE 10 RESTORED.—The taking effect of an elec-  
3           tion under section 1073a(c)(1) of title 10 by such in-  
4           dividual.

5           “(2) ANY OTHER TERMINATING EVENT.—Any  
6           other event which the Office may, in consultation  
7           with the appropriate Secretaries, by regulation pre-  
8           scribe.

9           “(i) TEMPORARY LIMITATIONS.—

10           “(1) IN GENERAL.—Effective with respect to  
11           the first 3 contract years to which this section ap-  
12           plies, elections under this section shall be permitted  
13           only to the extent that they would not cause the  
14           total number of elections in effect under this section  
15           (irrespective of the number of individuals affected by  
16           those elections) at any time to exceed—

17           “(A) 100,000 during the first such con-  
18           tract year;

19           “(B) 200,000 during the second such con-  
20           tract year; or

21           “(C) 400,000 during the third such con-  
22           tract year.

23           “(2) COORDINATION.—The Office shall issue  
24           guidelines in accordance with which the appropriate  
25           Secretaries shall arrange for any coordination of ef-

1       forts needed in order to comply with the limitations  
2       under paragraph (1).

3               “(3) RANDOMIZATION.—An election under sub-  
4       section (b)(1) may not be denied, by reason of this  
5       subsection, based on any factor other than when  
6       such election is made.

7               “(j) INFORMATION TO ELIGIBLES.—The Office shall  
8       be responsible for carrying out the requirements of section  
9       8907 with respect to all individuals who may be affected  
10      by this section. Upon request of the Office, the appro-  
11      priate Secretaries shall furnish such information as the  
12      Office requires to carry out this subsection.

13              “(k) REGULATIONS.—Any regulations necessary to  
14      carry out this section shall be prescribed by the Office,  
15      in consultation with the appropriate Secretaries. Such reg-  
16      ulations shall include provisions under which contracts  
17      under this chapter may provide for benefits and coverage,  
18      to persons covered by a health benefits plan pursuant to  
19      an election under this section, for care and treatment re-  
20      ceived through a military facility.”.

21              (b) CHAPTER ANALYSIS.—The analysis for chapter  
22      89 of title 5, United States Code, is amended by adding  
23      at the end the following:

“8915. Military dependents and military retirees”.

1 **SEC. 3. CONFORMING AMENDMENTS TO TITLE 10, UNITED**  
2 **STATES CODE.**

3 (a) **EFFECT OF ENROLLMENT.**—Chapter 55 of title  
4 10, United States Code, is amended by inserting after sec-  
5 tion 1073 the following new section:

6 **“§ 1073a. Coverage under Federal employee health**  
7 **benefits program: effect of enrollment,**  
8 **termination**

9 “(a) **AVAILABILITY OF COVERAGE.**—Pursuant to sec-  
10 tion 8915 of title 5, covered beneficiaries may become en-  
11 rolled in an approved health benefits plan under chapter  
12 89 of title 5 in lieu of obtaining medical or dental care  
13 as otherwise provided under this chapter.

14 “(b) **EFFECT OF ENROLLMENT.**—(1) If coverage  
15 under chapter 89 of title 5 is elected under section  
16 8915(b)(1) of such title, then, until such election is termi-  
17 nated, all rights to medical or dental care under this chap-  
18 ter shall cease with respect to—

19 “(A) the individual making the election; and

20 “(B) all covered beneficiaries of such individual  
21 (whether or not actually enrolled in a health benefits  
22 plan under chapter 89 of title 5), as identified under  
23 regulations prescribed under section 8915 of title 5.

24 “(2) Nothing in paragraph (1) shall affect—

25 “(A) any right of a member of the uniformed  
26 services on active duty to obtain medical or dental

1 care or any other benefit for the member under this  
2 chapter; or

3 “(B) the eligibility of a covered beneficiary to  
4 obtain medical or dental care or any other benefit  
5 under this chapter, if—

6 “(i) such eligibility is based on the rela-  
7 tionship of the covered beneficiary to an individ-  
8 ual other than an electing individual under sec-  
9 tion 8915(b)(1) of title 5; and

10 “(ii) the covered beneficiary is not enrolled  
11 in a health benefits plan under chapter 89 of  
12 title 5.

13 “(c) RESTORATION OF COVERAGE UNDER THIS  
14 CHAPTER.—(1) An individual making an election under  
15 section 8915 of title 5 may, after the expiration of a 3-  
16 year exclusionary period similar to the one described in  
17 paragraph (2) (including exceptions thereunder), elect to  
18 restore coverage under this chapter for all persons who  
19 would then otherwise be ineligible therefor by reason of  
20 such individual’s earlier election under title 5. Restoration  
21 of coverage under this chapter terminates eligibility for  
22 coverage under chapter 89 of title 5 on the part of the  
23 persons whose coverage is so restored.

24 “(2) If eligibility for coverage under chapter 89 of  
25 title 5 is terminated by an election under paragraph (1),

1 the electing individual may not make a subsequent election  
 2 under section 8915 of title 5 if coverage under such chap-  
 3 ter would (but for this paragraph) take effect within the  
 4 3-year period beginning on the effective date of the termi-  
 5 nation referred to in paragraph (1). The Office of Person-  
 6 nel Management, in consultation with the appropriate ad-  
 7 ministering Secretaries, may provide exceptions to this 3-  
 8 year exclusionary period.”.

9 (b) CLERICAL AMENDMENT.—The table of sections  
 10 at the beginning of such chapter is amended by inserting  
 11 after the item relating to section 1073 the following new  
 12 item:

“1073a. Coverage under Federal employee health benefits program: effect of en-  
 rollment, termination.”.

13 **SEC. 4. TECHNICAL AND CONFORMING PROVISIONS RELAT-**  
 14 **ING TO TITLE 5.**

15 (a) REFERENCES TO ENROLLEES.—

16 (1) REFERENCES THAT INCLUDE FAMILY MEM-  
 17 BERS.—

18 (A) IN GENERAL.—Any reference to per-  
 19 sons enrolled in a health benefits plan under  
 20 chapter 89 of title 5, United States Code (in-  
 21 cluding family members), made in any provision  
 22 of law identified under subparagraph (B), shall  
 23 be considered to include individuals who become

1 so enrolled pursuant to section 8915 of such  
2 title (including dependents).

3 (B) CITATIONS.—The provisions identified  
4 under this subparagraph are as follows:

5 (i) Sections 8902(g), 8902(j),  
6 8902(k)(1), 8902a(a)(1)(B), 8903(1), and  
7 the first sentence of 8913(c) of such title.

8 (ii) Such other provisions of law as  
9 the Office of Personnel Management may  
10 by regulation identify for purposes of this  
11 paragraph.

12 (2) REFERENCES THAT DO NOT INCLUDE FAM-  
13 ILY MEMBERS.—

14 (A) IN GENERAL.—Any reference to per-  
15 sons enrolled in a health benefits plan under  
16 chapter 89 of such title (excluding family mem-  
17 bers), made in any provision of law identified  
18 under subparagraph (B), shall be considered to  
19 include individuals who become so enrolled pur-  
20 suant to section 8915 of such title (excluding  
21 dependents).

22 (B) CITATIONS.—The provisions identified  
23 under this subparagraph are as follows:

24 (i) Sections 8902(e), 8905(f)(1)–(2),  
25 and 8909(d) of such title.

1                   (ii) Such other provisions of law as  
2                   the Office of Personnel Management may  
3                   by regulation identify for purposes of this  
4                   paragraph.

5           (b) EMPLOYEES HEALTH BENEFITS FUND.—The  
6 first sentence of section 8909(a) of title 5, United States  
7 Code, is amended by striking “section 8906 of this title”  
8 and inserting “section 8906 and 8915, respectively”.

9 **SEC. 5. DEFINITIONS.**

10       Section 8901 of title 5, United States Code, is  
11 amended—

12           (1) by striking “and” at the end of paragraph  
13           (10);

14           (2) by striking the period at the end of para-  
15           graph (11) and inserting a semicolon; and

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

17           “(12) ‘appropriate Secretaries’ means—

18                   “(A) the Secretary of Defense; and

19                   “(B) the Secretary of Transportation, for  
20           purposes of the Coast Guard when the Coast  
21           Guard is not operating as a service in the Navy;

22           “(13) ‘military retiree’ means a member or  
23           former member of the armed forces described in sec-  
24           tion 8915(b)(1)(B);

1           “(14) ‘military dependent’ means a covered  
2 beneficiary (other than a military retiree) who is eli-  
3 gible for coverage under this chapter by virtue of  
4 being a dependent of an active duty member or of  
5 a military retiree;

6           “(15) ‘covered beneficiary’ has the meaning  
7 given that term by section 1072(5) of title 10, sub-  
8 ject to such modifications as the Office may by regu-  
9 lation prescribe for purposes of carrying out section  
10 8915 (and other provisions of this chapter in con-  
11 nection therewith);

12           “(16) ‘active duty member’ means a member of  
13 the armed forces described in section 8915(b)(1)(A);

14           “(17) ‘qualified dependent’ has the meaning  
15 given that term by section 8915(b)(3); and

16           “(18) ‘open enrollment period’ means a period  
17 provided for under section 8905(f)(1).”.

○