

110TH CONGRESS
1ST SESSION

S. 604

To amend title 10, United States Code, to limit increases in the certain costs of health care services under the health care programs of the Department of Defense, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 15, 2007

Mr. LAUTENBERG (for himself, Mr. HAGEL, Mr. KERRY, and Mrs. LINCOLN) introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To amend title 10, United States Code, to limit increases in the certain costs of health care services under the health care programs of the Department of Defense, 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 Protection Act”.

6 **SEC. 2. FINDINGS AND SENSE OF CONGRESS.**

7 (a) FINDINGS.—Congress makes the following find-
8 ings:

1 (1) Career members of the uniformed services
2 and their families endure unique and extraordinary
3 demands, and make extraordinary sacrifices, over
4 the course of 20-year to 30-year careers in pro-
5 tecting freedom for all Americans.

6 (2) The nature and extent of these demands
7 and sacrifices are never so evident as in wartime,
8 not only during the current Global War on Ter-
9 rorism, but also during the wars of the last 60 years
10 when current retired members of the Armed Forces
11 were on continuous call to go in harm's way when
12 and as needed.

13 (3) The demands and sacrifices are such that
14 few Americans are willing to bear or accept them for
15 a multi-decade career.

16 (4) A primary benefit of enduring the extraor-
17 dinary sacrifices inherent in a military career is a
18 range of extraordinary retirement benefits that a
19 grateful Nation provides for those who choose to
20 subordinate much of their personal life to the na-
21 tional interest for so many years.

22 (5) Many private sector firms are curtailing
23 health benefits and shifting significantly higher costs
24 to their employees, and one effect of such curtail-
25 ment is that retired members of the uniformed serv-

1 ices are turning for health care services to the De-
2 partment of Defense, and its TRICARE program,
3 for the health care benefits in retirement that they
4 earned by their service in uniform.

5 (6) In some cases, civilian employers establish
6 financial incentives for employees who are also eligi-
7 ble for participation in the TRICARE program to
8 receive health care benefits under that program
9 rather than under the health care benefits programs
10 of such employers.

11 (7) While the Department of Defense has made
12 some efforts to contain increases in the cost of the
13 TRICARE program, a large part of those efforts has
14 been devoted to shifting a larger share of the costs
15 of benefits under that program to retired members
16 of the uniformed services.

17 (8) The cumulative increase in enrollment fees,
18 deductibles, and copayments being proposed by the
19 Department of Defense for health care benefits
20 under the TRICARE program far exceeds the 33-
21 percent increase in military retired pay since such
22 fees, deductibles, and copayments were first required
23 on the part of retired members of the uniformed
24 services 11 years ago.

1 (9) Proposals of the Department of Defense for
2 increases in the enrollment fees, deductibles, and co-
3 payments of retired members of the uniformed serv-
4 ices who are participants in the TRICARE program
5 fail to recognize adequately that such members paid
6 the equivalent of enormous in-kind premiums for
7 health care in retirement through their extended sac-
8 rifices by service in uniform.

9 (10) Some of the Nation's health care providers
10 refuse to accept participants in the TRICARE pro-
11 gram as patients because that program pays them
12 significantly less than commercial insurance pro-
13 grams, and imposes unique administrative require-
14 ments, for health care services.

15 (11) The Department of Defense has chosen to
16 count the accrual deposit to the Department of De-
17 fense Military Retiree Health Care Fund against the
18 budget of the Department of Defense, contrary to
19 the requirements of section 1116 of title 10, United
20 States Code.

21 (12) Senior officials of the Department of De-
22 fense leaders have reported to Congress that count-
23 ing such deposits against the budget of the Depart-
24 ment of Defense is impinging on other readiness
25 needs of the Armed Forces, including weapons pro-

1 grams, an inappropriate situation which section
2 1116 of title 10, United States Code, was intended
3 expressly to prevent.

4 (b) SENSE OF CONGRESS.—It is the sense of Con-
5 gress that—

6 (1) the Department of Defense and the Nation
7 have a committed obligation to provide health care
8 benefits to retired members of the uniformed serv-
9 ices that exceeds the obligation of corporate employ-
10 ers to provide health care benefits to their employ-
11 ees;

12 (2) the Department of Defense has many addi-
13 tional options to constrain the growth of health care
14 spending in ways that do not disadvantage retired
15 members of the uniformed services who participate
16 or seek to participate in the TRICARE program,
17 and should pursue any and all such options rather
18 than seeking large increases for enrollment fees,
19 deductibles, and copayments for such retirees, and
20 their families or survivors, who do participate in that
21 program;

22 (3) any percentage increase in fees, deductibles,
23 and copayments that may be considered under the
24 TRICARE program for retired members of the uni-
25 formed services and their families or survivors

1 should not in any case exceed the percentage in-
2 crease in military retired pay; and

3 (4) any percentage increase in fees, deductibles,
4 and copayments under the TRICARE program that
5 may be considered for members of the uniformed
6 services who are currently serving on active duty or
7 in the Selected Reserve, and for the families of such
8 members, should not exceed the percentage increase
9 in basic pay for such members.

10 **SEC. 3. LIMITATIONS ON CERTAIN INCREASES IN HEALTH**
11 **CARE COSTS FOR MEMBERS OF THE UNI-**
12 **FORMED SERVICES.**

13 (a) PHARMACY BENEFITS PROGRAM.—Section
14 1074g(a)(6) of title 10, United States Code, is amended
15 by adding at the end the following new subparagraph:

16 “(C) The amount of any cost sharing requirements
17 under this paragraph may not be increased in any year
18 by a percentage that exceeds the percentage increase of
19 the most recent increase in retired pay for members of
20 the armed forces under section 1401a(b)(2) of this title.
21 To the extent that such increase for any year is less than
22 one dollar, the accumulated increase may be carried over
23 from year to year, rounded to the nearest dollar.”.

24 (b) PREMIUMS FOR TRICARE STANDARD FOR RE-
25 SERVE COMPONENT MEMBERS WHO COMMIT TO SERVICE

1 IN THE SELECTED RESERVE.—Section 1076d(d)(3) of
2 such title is amended—

3 (1) by striking “The monthly amount” and in-
4 serting “(A) Subject to subparagraph (B), the
5 monthly amount”; and

6 (2) by adding at the end the following new sub-
7 paragraph:

8 “(B) Effective as of October 1, 2007, the percentage
9 increase in the amount of the premium in effect for a
10 month for TRICARE Standard coverage under this sec-
11 tion may not exceed a percentage equal to the percentage
12 of the most recent increase in the rate of basic pay author-
13 ized for members of the uniformed services for a year.”.

14 (c) COPAYMENTS UNDER CHAMPUS.—Paragraph
15 (3) of section 1086(b) of such title is amended in the first
16 sentence by striking “during the period beginning on April
17 1, 2006, and ending on September 30, 2007.” and insert-
18 ing “after March 31, 2006”.

19 (d) PROHIBITION ON ENROLLMENT FEES FOR CER-
20 TAIN PERSONS UNDER CHAMPUS.—Section 1086(b) of
21 such title is further amended by adding at the end the
22 following new paragraph:

23 “(5) A person covered by subsection (c) may
24 not be charged an enrollment fee for coverage under
25 this section.”.

1 (e) AUTOMATIC ENROLLMENT FOR CERTAIN PER-
2 SONS UNDER CHAMPUS.—Section 1086(b) of such title
3 is further amended by adding at the end the following new
4 paragraph:

5 “(6) A person covered by subsection (c) shall
6 not be subject to denial of claims for coverage under
7 this section for failure to enroll for such coverage.
8 To the extent enrollment may be required, enroll-
9 ment shall be automatic for any such person filing
10 a claim under this section.”.

11 (f) PREMIUMS AND OTHER CHARGES UNDER
12 TRICARE.—Section 1097(e) of such title is amended—

13 (1) by inserting “(1)” before “The Secretary of
14 Defense”; and

15 (2) by adding at the end the following new
16 paragraph:

17 “(2) Effective as of October 1, 2007, the percentage
18 increase in the amount of any premium, deductible, copay-
19 ment or other charge prescribed by the Secretary under
20 this subsection may not exceed the percentage increase of
21 the most recent increase in retired pay for members and
22 former members of the armed forces under section
23 1041a(b)(2) of this title.”.

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