

PROHIBITION ON COLLECTION OF COPAYMENTS FOR ALL  
HOSPICE CARE FURNISHED BY DEPARTMENT OF VET-  
ERANS AFFAIRS

JULY 27, 2007.—Committed to the Committee of the Whole House on the State of  
the Union and ordered to be printed

Mr. FILNER, from the Committee on Veterans' Affairs,  
submitted the following

R E P O R T

[To accompany H.R. 2623]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 2623) to amend title 38, United States Code, to prohibit the collection of copayments for all hospice care furnished by the Department of Veterans Affairs, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:  
Strike all after the enacting clause and insert the following:

**SECTION 1. PROHIBITION ON COLLECTION OF COPAYMENTS FOR ALL HOSPICE CARE FURNISHED BY DEPARTMENT OF VETERANS AFFAIRS.**

Title 38, United States Code, is amended—

(1) in section 1710(f)(1), by inserting “(except if such care constitutes hospice care)” after “nursing home care”;

(2) in section 1710(g)(1), by inserting “(except if such services constitute hospice care)” after “medical services”; and

(3) in section 1710B(c)(2), by striking subparagraph (B) and inserting after subparagraph (A) the following new subparagraph (B):

“(B) to a veteran being furnished inpatient or outpatient hospice care by the Department; or”.

**PURPOSE AND SUMMARY**

H.R. 2623, to amend title 38, United States Code, to prohibit the collection of copayments for all hospice care furnished by the Department of Veterans Affairs, was introduced on June 7, 2007, by Representative Jeff Miller of Florida, the Ranking Member of the Subcommittee on Health. The legislation would enable the VA to provide hospice care to eligible veterans without collecting copayments.

H.R. 2623 would:

1. Prohibit the collection of copayments for all hospice care provided by the VA.

**BACKGROUND AND DISCUSSION**

Hospice and palliative care is a continuum of comfort-oriented and supportive services provided across settings, including hospitals, extended care facilities, outpatient clinics and private residences.

The Department of Veterans Affairs (VA) offers a complement of hospice and palliative care options as part of the comprehensive health care benefit provided to all enrolled veterans. In FY 2006, every VA facility offered some form of hospice and end-of-life care service. In comparison, according to a recent survey, only one-fourth of other hospitals had a palliative care program. The VA’s Hospice and Palliative Care Program has transformed much of the end-of-life care provided or purchased by VA. In fact, 42 percent of all veterans who died in a VA facility received prior consultation from a palliative care team. Palliative care consults in VA hospitals more than doubled between FY 2003 and FY 2006 and surpassed 20,000 in FY 2006. The number of veterans receiving VA-paid home hospice care tripled between FY 2003 and FY 2005, and increased another 30 percent in FY 2006, reaching an average daily census of 427 veterans.

VA has reported that they track copayment amounts for inpatient services and outpatient services collectively rather than by individual services. It is, therefore, difficult to determine the exact amount of revenue VA has received from hospice care copayments. However, VA estimates a total of \$343,542 in annual revenue: \$183,180 for home hospice care, and \$160,362 for inpatient hospice care.

Under current law, a veteran receiving hospice care in a nursing home is exempt from any applicable copayments. However, if the hospice care is provided in any other setting, such as in an acute-

care hospital or at home, the veteran may be subject to an inpatient or outpatient primary care copayment.

VA's current policy penalizes a veteran who chooses to remain at home for their hospice care or who, out of medical necessity, receives hospice care in an acute care setting.

H.R. 2623 would correct this inequity by exempting all hospice care provided through VA from copayment requirements. In addition, this legislation would also align VA with the Medicare program, which does not impose copayments for hospice care regardless of the setting.

#### LEGISLATIVE HISTORY

On May 9, 2007, the Subcommittee on Health held a hearing entitled "The State of VA's Long-Term Care Program Present and Future." Testimony at this hearing included a discussion regarding the copayment requirements for veterans receiving hospice care.

On June 14, 2007, the Subcommittee on Health held a legislative hearing on a number of bills, including H.R. 2623, introduced during the 110th Congress.

On June 28, 2007, the Subcommittee on Health marked up H.R. 2623. An Amendment in the Nature of a Substitute was offered by Representative Miller that was agreed to by voice vote. The Subcommittee ordered H.R. 2623, as amended, reported favorably to the full Committee.

On July 17, 2007, the full Committee met in open markup session and approved a number of bills, including H.R. 2623, as amended. The full Committee, by voice vote, ordered H.R. 2623, as amended, reported favorably to the House of Representatives.

#### SECTION-BY-SECTION

##### *Section 1. Prohibition on collection of copayments for all hospice care furnished by Department of Veterans Affairs*

This section would amend sections 1710(f)(1), 1710(g)(1), and 1710B(c)(2) of title 38, United States Code, to enable the Secretary to furnish hospice care to all eligible veterans without requiring the veteran to pay any applicable copayments.

#### COMMITTEE CONSIDERATION

On July 17, 2007, the Committee ordered H.R. 2623, as amended, reported favorably to the House of Representatives by voice vote.

#### ROLLCALL VOTES

The Committee held no rollcall votes on this bill. A motion to order H.R. 2623, as amended, reported favorably to the House of Representatives was agreed to by voice vote.

#### APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104-1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill does not relate to employment or access to public services and accommodations.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF  
THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause (3)(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are reflected in the descriptive portions of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Under clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee must include a statement citing the specific powers granted to Congress to enact the law proposed by H.R. 2623. The Committee finds that Article 1, Section 8 of the Constitution of the United States grants Congress the power to enact this law.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of 5 U.S.C. App., section 5(b).

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by section 101(a)(2) of the Unfunded Mandate Reform Act, P.L. 104-4) requires a statement whether the provisions of the reported bill include unfunded mandates. In compliance with this requirement the Committee has received a letter from the Congressional Budget Office that is included herein.

EARMARK IDENTIFICATION

H.R. 2623, as amended, does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI of the Rules of the House of Representatives.

COMMITTEE ESTIMATE

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out H.R. 2623, as amended. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST  
ESTIMATE

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, July 24, 2007.*

Hon. BOB FILNER,  
*Chairman, Committee on Veterans' Affairs,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2623, a bill to amend title 38, United States Code, to prohibit the collection of copayments for all hospice care furnished by the Department of Veterans Affairs.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Michelle S. Patterson.

Sincerely,

PETER R. ORSZAG, *Director.*

Enclosure.

*H.R. 2623—A bill to amend title 38, United States Code, to prohibit the collection of copayments for all hospice care furnished by the Department of Veterans Affairs*

H.R. 2623 would prohibit the Department of Veterans Affairs (VA) from collecting copayments from veterans receiving hospice care. This would apply to care received at both inpatient and outpatient facilities. Depending upon where veterans get hospice care, copayments range from \$15 per day to a maximum of \$97 per day. Most veterans receiving this type of care from VA are not charged copayments—only veterans whose disabilities are unrelated to their military service and whose incomes are above a certain level are required to make copayments.

Based on information from VA that 435 veterans made copayments averaging about \$800 last year for hospice care, CBO estimates that implementing H.R. 2623 would decrease collections by less than \$500,000 each year and by about \$2 million over the 2008–2012 period. Those collections are considered to be offsets to discretionary appropriations. As part of the annual appropriations process, the Congress gives VA authority to spend those collections. Therefore, if it wished to maintain the same level of health care services for veterans, the Congress would need to appropriate additional funds each year to make up for the loss of copayments under this bill. Under those circumstances, implementing H.R. 2623 would cost about \$2 million over the 2008–2012 period. Enacting this bill would not affect direct spending or receipts.

H.R. 2623 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Michelle S. Patterson. This estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill,

as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**TITLE 38, UNITED STATES CODE**

\* \* \* \* \*

**PART II—GENERAL BENEFITS**

\* \* \* \* \*

**CHAPTER 17—HOSPITAL, NURSING HOME,  
DOMICILIARY, AND MEDICAL CARE**

\* \* \* \* \*

**SUBCHAPTER II—HOSPITAL, NURSING HOME, OR  
DOMICILIARY CARE AND MEDICAL TREATMENT**

**§ 1710. Eligibility for hospital, nursing home, and domiciliary care**

(a) \* \* \*

\* \* \* \* \*

(f)(1) The Secretary may not furnish hospital care or nursing home care (*except if such care constitutes hospice care*) under this section to a veteran who is eligible for such care under subsection (a)(3) of this section unless the veteran agrees to pay to the United States the applicable amount determined under paragraph (2) or (4) of this subsection.

\* \* \* \* \*

(g)(1) The Secretary may not furnish medical services (*except if such services constitute hospice care*) under subsection (a) of this section (including home health services under section 1717 of this title) to a veteran who is eligible for hospital care under this chapter by reason of subsection (a)(3) of this section unless the veteran agrees to pay to the United States in the case of each outpatient visit the applicable amount or amounts established by the Secretary by regulation.

\* \* \* \* \*

**§ 1710B. Extended care services**

(a) \* \* \*

\* \* \* \* \*

(c)(1) \* \* \*

(2) Paragraph (1) shall not apply—

(A) \* \* \*

[(B) to a veteran being furnished hospice care under this section; or]

*(B) to a veteran being furnished inpatient or outpatient hospice care by the Department; or*

\* \* \* \* \*

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