

111TH CONGRESS
2D SESSION

H. R. 4551

To restore health care coverage to retired members of the uniformed services,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 27, 2010

Mr. VAN HOLLEN (for himself, Mr. LINCOLN DIAZ-BALART of Florida, Mr. WOLF, Ms. BORDALLO, Ms. SHEA-PORTER, Mr. BARTLETT, Mr. BRADY of Pennsylvania, Mr. THOMPSON of Mississippi, Mr. ELLISON, Mrs. CAPPS, Mr. NEAL of Massachusetts, Mr. BOSWELL, Mr. LOBIONDO, Mr. SCOTT of Georgia, Mr. DELAHUNT, Mr. MCGOVERN, Mr. MORAN of Virginia, Mr. JONES, Mr. TAYLOR, Mr. MOORE of Kansas, Mr. PAUL, Ms. JACKSON LEE of Texas, Mr. SESTAK, Mr. KAGEN, Mr. ISRAEL, Mr. GENE GREEN of Texas, Mr. DEFazio, Mr. GONZALEZ, Mr. HARE, Mr. MCINTYRE, and Mr. GORDON of Tennessee) introduced the following bill; which was referred to the Committee on Armed Services, and in addition to the Committee on Oversight and Government Reform, 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 restore health care coverage to retired members of the
uniformed services, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Keep Our Promise to
3 America’s Military Retirees Act”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) No statutory health care program existed
7 for members of the uniformed services who entered
8 service prior to December 7, 1956, and retired after
9 serving a minimum of 20 years.

10 (2) Statutes enacted in 1956 allowed those who
11 entered service on or after December 7, 1956, and
12 retired after serving a minimum of 20 years or by
13 reason of a service-connected disability to medical
14 and dental care in any facility of the uniformed serv-
15 ices, subject to the availability of space and facilities
16 and the capabilities of the medical and dental staff.

17 (3) Recruiters, re-enlistment counselors, and of-
18 ficers at all levels of the uniformed services, and
19 other government officials, as agents of the United
20 States Government, continued to allow members who
21 entered the uniformed services to believe they would
22 be entitled to fully paid lifetime health care upon re-
23 tirement, despite enactment of statutes in 1956,
24 subsequent statutes, and the issuance of regulations
25 that defined and limited the availability of medical
26 care to retired members of the uniformed services.

1 (4) After 5 rounds of base closures between
2 1988 and 1995 and further drawdowns of remaining
3 military medical treatment facilities, access to
4 “space available” health care in a military medical
5 treatment facility is difficult for many military retir-
6 ees and virtually nonexistent for some.

7 (5) Although provisions in the Floyd D. Spence
8 National Defense Authorization Act for Fiscal Year
9 2001 (as enacted into law by Public Law 106–398)
10 extended coverage under the TRICARE program to
11 medicare eligible military retirees age 65 and older,
12 those provisions did not address the health care
13 needs of military retirees under the age of 65.

14 (6) The United States should make good on the
15 promises recruiters made in good faith and reestab-
16 lish high quality health care for all retired members
17 of the uniformed services.

18 **SEC. 3. COVERAGE OF MILITARY RETIREES UNDER THE**
19 **FEDERAL EMPLOYEES HEALTH BENEFITS**
20 **PROGRAM.**

21 (a) COVERAGE FOR RETIREES AND DEPENDENTS.—

22 (1) Section 1108 of title 10, United States
23 Code, is amended to read as follows:

1 **“§ 1108. Health care coverage through Federal Em-**
2 **ployees Health Benefits program**

3 “(a) FEHBP OPTION.—The Secretary of Defense,
4 after consulting with the other administering Secretaries,
5 shall enter into an agreement with the Office of Personnel
6 Management to provide coverage to eligible beneficiaries
7 described in subsection (b) under the health benefits plans
8 offered through the Federal Employees Health Benefits
9 program under chapter 89 of title 5.

10 “(b) ELIGIBLE BENEFICIARIES; COVERAGE.—(1) An
11 eligible beneficiary under this subsection is—

12 “(A) a member or former member of the uni-
13 formed services described in section 1074(b) of this
14 title;

15 “(B) an individual who is an unremarried
16 former spouse of a member or former member de-
17 scribed in section 1072(2)(F) or 1072(2)(G);

18 “(C) an individual who is—

19 “(i) a dependent of a deceased member or
20 former member described in section 1076(b) or
21 1076(a)(2)(B) of this title or of a member who
22 died while on active duty for a period of more
23 than 30 days; and

24 “(ii) a member of family as defined in sec-
25 tion 8901(5) of title 5; or

26 “(D) an individual who is—

1 “(i) a dependent of a living member or
2 former member described in section 1076(b)(1)
3 of this title; and

4 “(ii) a member of family as defined in sec-
5 tion 8901(5) of title 5.

6 “(2) Eligible beneficiaries may enroll in a Federal
7 Employees Health Benefit plan under chapter 89 of title
8 5 under this section for self-only coverage or for self and
9 family coverage which includes any dependent of the mem-
10 ber or former member who is a family member for pur-
11 poses of such chapter.

12 “(3) A person eligible for coverage under this sub-
13 section shall not be required to satisfy any eligibility cri-
14 teria specified in chapter 89 of title 5 (except as provided
15 in paragraph (1)(C) or (1)(D)) as a condition for enroll-
16 ment in health benefits plans offered through the Federal
17 Employees Health Benefits program under this section.

18 “(4) For purposes of determining whether an indi-
19 vidual is a member of family under paragraph (5) of sec-
20 tion 8901 of title 5 for purposes of paragraph (1)(C) or
21 (1)(D), a member or former member described in section
22 1076(b) or 1076(a)(2)(B) of this title shall be deemed to
23 be an employee under such section.

24 “(5) An eligible beneficiary who enrolls in the Federal
25 Employees Health Benefits program under this section

1 shall not be eligible to receive health care under section
2 1086 or section 1097. Such a beneficiary may continue
3 to receive health care in a military medical treatment facil-
4 ity, in which case the treatment facility shall be reim-
5 bursed by the Federal Employees Health Benefits pro-
6 gram for health care services or drugs received by the ben-
7 efiary.

8 “(c) CHANGE OF HEALTH BENEFITS PLAN.—An eli-
9 gible beneficiary enrolled in a Federal Employees Health
10 Benefits plan under this section may change health bene-
11 fits plans and coverage in the same manner as any other
12 Federal Employees Health Benefits program beneficiary
13 may change such plans.

14 “(d) GOVERNMENT CONTRIBUTIONS.—The amount
15 of the Government contribution for an eligible beneficiary
16 who enrolls in a health benefits plan under chapter 89 of
17 title 5 in accordance with this section may not exceed the
18 amount of the Government contribution which would be
19 payable if the electing beneficiary were an employee (as
20 defined for purposes of such chapter) enrolled in the same
21 health benefits plan and level of benefits.

22 “(e) SEPARATE RISK POOLS.—The Director of the
23 Office of Personnel Management shall require health bene-
24 fits plans under chapter 89 of title 5 to maintain a sepa-
25 rate risk pool for purposes of establishing premium rates

1 for eligible beneficiaries who enroll in such a plan in ac-
 2 cordance with this section.

3 “(f) REIMBURSEMENT FOR EXPENSES FOR HEALTH
 4 CARE SERVICES NORMALLY PROVIDED BY THE DEPART-
 5 MENT OF DEFENSE UNDER TRICARE STANDARD.—The
 6 Secretary of Defense shall develop and implement a sys-
 7 tem to reimburse an eligible beneficiary who enrolls in a
 8 health benefits plan under chapter 89 of title 5 in accord-
 9 ance with this section for health care costs incurred by
 10 the beneficiary that are not paid under the health benefits
 11 plan but would have been paid by the Department of De-
 12 fense under TRICARE Standard.”.

13 (2) The item relating to section 1108 at the begin-
 14 ning of such chapter is amended to read as follows:

“1108. Health care coverage through Federal Employees Health Benefits pro-
 gram.”.

15 (b) EFFECTIVE DATE.—The amendments made by
 16 this section shall take effect on October 1, 2010.

17 **SEC. 4. REIMBURSEMENT FOR TRICARE PHARMACY BENE-**
 18 **FITS AT TRICARE NETWORK PHARMACY LEV-**
 19 **ELS TO CERTAIN MILITARY RETIREES AND**
 20 **DEPENDENTS IN HARDSHIP CASES.**

21 (a) IN GENERAL.—In the case of an eligible person
 22 who has a certification described in subsection (b), the
 23 Secretary shall reimburse such person for pharmacy bene-
 24 fits received from a pharmacy that is not a TRICARE

1 network pharmacy in the same manner and in the same
2 amounts as the Secretary would reimburse such person
3 for such benefits received from a pharmacy that is a
4 TRICARE network pharmacy.

5 (b) CERTIFICATION.—The certification referred to in
6 subsection (a) is a certification from an eligible person’s
7 physician—

8 (1) stating that the person does not have access
9 to a TRICARE network pharmacy due to physical or
10 medical constraints; and

11 (2) meeting such other criteria as the Secretary
12 of Defense considers appropriate.

13 (c) ELIGIBLE PERSON.—In this section, an eligible
14 person is an eligible beneficiary as described in section
15 1108(b) of title 10, United States Code, who has another
16 insurance plan or program that provides primary coverage
17 for health benefits.

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