

111TH CONGRESS
1ST SESSION

S. 404

To amend title 38, United States Code, to expand veteran eligibility for reimbursement by the Secretary of Veterans Affairs for emergency treatment furnished in a non-Department facility, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 10, 2009

Mr. AKAKA (for himself and Mr. BURRIS) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to expand veteran eligibility for reimbursement by the Secretary of Veterans Affairs for emergency treatment furnished in a non-Department facility, 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 “Veterans’ Emergency
5 Care Fairness Act of 2009”.

1 **SEC. 2. EXPANSION OF VETERAN ELIGIBILITY FOR REIM-**
2 **BURSEMENT BY SECRETARY OF VETERANS**
3 **AFFAIRS FOR EMERGENCY TREATMENT FUR-**
4 **NISHED IN A NON-DEPARTMENT FACILITY.**

5 (a) **EXPANSION OF ELIGIBILITY.**—Subsection
6 (b)(3)(C) of section 1725 of title 38, United States Code,
7 is amended by striking “, in whole or in part,”.

8 (b) **LIMITATIONS ON REIMBURSEMENT.**—Such sec-
9 tion 1725 is further amended—

10 (1) in subsection (c), by adding at the end the
11 following new paragraph:

12 “(4)(A) If the veteran has contractual or legal re-
13 course against a third party that would, in part, extin-
14 guish the veteran’s liability to the provider of the emer-
15 gency treatment and payment for the treatment may be
16 made both under subsection (a) and by the third party,
17 the amount payable for such treatment under such sub-
18 section shall be the amount by which the costs for the
19 emergency treatment exceed the amount payable or paid
20 by the third party, except that the amount payable may
21 not exceed the maximum amount payable established
22 under paragraph (1)(A).

23 “(B) In any case in which a third party is financially
24 responsible for part of the veteran’s emergency treatment
25 expenses, the Secretary shall be the secondary payer.

1 “(C) A payment in the amount payable under sub-
2 paragraph (A) shall be considered payment in full and
3 shall extinguish the veteran’s liability to the provider.

4 “(D) The Secretary may not reimburse a veteran
5 under this section for any copayment or similar payment
6 that the veteran owes the third party or for which the vet-
7 eran is responsible under a health-plan contract.”; and

8 (2) in subsection (f)(3)—

9 (A) in subparagraph (A), by inserting be-
10 fore the period at the end the following: “, in-
11 cluding the Secretary of Health and Human
12 Services with respect to the Medicare program
13 under title XVIII of the Social Security Act (42
14 U.S.C. 1395 et seq.) and the Medicaid program
15 under title XIX of such Act (42 U.S.C. 1396 et
16 seq.)”; and

17 (B) in subparagraph (B), by inserting be-
18 fore the period at the end the following: “, in-
19 cluding a State Medicaid agency with respect to
20 payments made under a State plan for medical
21 assistance approved under title XIX of such Act
22 (42 U.S.C. 1396 et seq.)”.

23 (c) EFFECTIVE DATE.—

24 (1) IN GENERAL.—The amendments made by
25 subsections (a) and (b) shall take effect on the date

1 of the enactment of this Act, and shall apply with
2 respect to emergency treatment furnished on or
3 after the date of the enactment of this Act.

4 (2) REIMBURSEMENT FOR TREATMENT BEFORE
5 EFFECTIVE DATE.—The Secretary may provide re-
6 imbursement under section 1725 of title 38, United
7 States Code, as amended by subsection (a) and (b)
8 for emergency treatment furnished before the date
9 of the enactment of this Act if the Secretary deter-
10 mines that, under the circumstances applicable with
11 respect to the veteran, it is appropriate to do so.

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