

113TH CONGRESS
1ST SESSION

H. R. 2953

To provide Medicare payments to Department of Veterans Affairs medical facilities for items and services provided to Medicare-eligible veterans for non-service-connected conditions.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 1, 2013

Mr. MICHAUD introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce and Veterans' Affairs, 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 provide Medicare payments to Department of Veterans Affairs medical facilities for items and services provided to Medicare-eligible veterans for non-service-connected conditions.

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 “Medicare VA Reim-
5 bursement Act of 2013”.

1 **SEC. 2. ESTABLISHMENT OF MEDICARE SUBVENTION FOR**
2 **VETERANS.**

3 (a) IN GENERAL.—Section 1862 of the Social Secu-
4 rity Act (42 U.S.C. 1395y) is amended by adding at the
5 end the following new subsection:

6 “(p) MEDICARE SUBVENTION FOR VETERANS.—

7 “(1) ESTABLISHMENT.—The Secretary of
8 Health and Human Services, in cooperation with the
9 Secretary of Veterans Affairs, shall establish a pro-
10 gram to be known as the ‘Medicare VA reimburse-
11 ment program’ under which the Secretary of Health
12 and Human Services shall reimburse the Secretary
13 of Veterans Affairs, from the Federal Hospital In-
14 surance Trust Fund established in section 1817 and
15 the Federal Supplementary Medical Insurance Trust
16 Fund established in section 1841, for an item or
17 service that—

18 “(A) is furnished to a Medicare-eligible
19 veteran by a Department of Veterans Affairs
20 medical facility for the treatment of a non-serv-
21 ice-connected condition; and

22 “(B) is covered under this title or is deter-
23 mined to be medically necessary by the Sec-
24 retary of Veterans Affairs.

25 “(2) MEMORANDUM OF UNDERSTANDING.—

1 “(A) IN GENERAL.—Not later than 6
2 months after the date of the enactment of this
3 subsection, the Secretary of Health and Human
4 Services shall enter a memorandum of under-
5 standing with the Secretary of Veterans Affairs
6 concerning the administration of the Medicare
7 VA reimbursement program.

8 “(B) CONTRACT ELEMENTS.—The memo-
9 randum of understanding under subparagraph
10 (A) shall contain the following:

11 “(i) FREQUENCY OF REIMBURSE-
12 MENT.—An agreement on how often reim-
13 bursements will be made by the Secretary
14 of Health and Human Services to the Sec-
15 retary of Veterans Affairs.

16 “(ii) BILLING SYSTEM.—An agree-
17 ment on the details of the billing system
18 that will be used by the Secretary of Vet-
19 erans Affairs to make claims for reim-
20 bursement from the Secretary of Health
21 and Human Services.

22 “(iii) DATA SHARING AGREEMENT.—
23 An agreement on data sharing, including—

24 “(I) identification of the data ex-
25 changes that each Secretary will need

1 to develop, maintain, or provide access
2 to, for purposes of the Medicare VA
3 reimbursement program; and

4 “(II) verification of data dem-
5 onstrating that an item or service was
6 provided by a Department of Veterans
7 Affairs medical facility to a Medicare-
8 eligible veteran for a non-service-con-
9 nected condition before the Secretary
10 of Health and Human Services pro-
11 vides for reimbursement for such item
12 or service under the Medicare VA re-
13 imbursement program.

14 “(iv) PAYMENT RATE.—Details of the
15 payment rate to be used consistent with
16 paragraph (3) for reimbursements made
17 under the Medicare VA reimbursement
18 program.

19 “(v) PERFORMANCE MEASURES.—An
20 agreement on performance measures and
21 performance targets to be used to dem-
22 onstrate the impact of the Medicare VA re-
23 imbursement program.

1 “(vi) ADDITIONAL TERMS.—Any addi-
2 tional terms deemed necessary by the ad-
3 ministering Secretaries.

4 “(C) NO MAINTENANCE OF EFFORT RE-
5 QUIREMENT.—For purposes of the Medicare
6 VA reimbursement program, the Secretary of
7 Veterans Affairs shall not be required to meet
8 a requirement that the Secretary of Veterans
9 Affairs maintain a certain level of spending in
10 order to receive reimbursement from the Sec-
11 retary of Health and Human Services.

12 “(3) PAYMENTS BASED ON REGULAR MEDICARE
13 PAYMENT RATES.—

14 “(A) AMOUNT.—Subject to the succeeding
15 provisions of this paragraph, the Secretary of
16 Health and Human Services shall reimburse the
17 Secretary of Veterans Affairs—

18 “(i) for an item or service that is cov-
19 ered under this title and is provided to a
20 Medicare-eligible veteran by a Department
21 of Veterans Affairs medical facility for the
22 treatment of a non-service-connected condi-
23 tion, at a rate that is not less than 100
24 percent of the amounts that otherwise
25 would be payable under this title, on a fee-

1 for-service basis, for such item or service if
2 the Department of Veterans Affairs med-
3 ical facility were a provider of services,
4 were participating in the Medicare pro-
5 gram, and imposed charges for such item
6 or service; and

7 “(ii) for an item or service that is not
8 covered under this title that is provided to
9 a Medicare-eligible veteran by a Depart-
10 ment of Veterans Affairs medical facility
11 for the treatment of a non-service-con-
12 nected condition, if the Secretary of Vet-
13 erans Affairs determines that such item or
14 service is medically necessary, at a rate de-
15 termined by the Secretary of Health and
16 Human Services in consultation with the
17 Secretary of Veterans Affairs.

18 “(B) NO ARBITRARY LIMITATION ON
19 AMOUNT.—Subject to the requirements of this
20 subsection, the Secretary of Health and Human
21 Services may not impose an annual cap or other
22 limit on the amount of reimbursement made
23 under the Medicare VA reimbursement pro-
24 gram.

1 “(C) EXCLUSION OF CERTAIN AMOUNTS.—

2 In computing the amount of payment under
3 subparagraph (A), the following amounts shall
4 be excluded:

5 “(i) DISPROPORTIONATE SHARE HOS-
6 PITAL ADJUSTMENT.—Any amount attrib-
7 utable to an adjustment under section
8 1886(d)(5)(F).

9 “(ii) DIRECT GRADUATE MEDICAL
10 EDUCATION PAYMENTS.—Any amount at-
11 tributable to a payment under section
12 1886(h).

13 “(iii) INDIRECT MEDICAL EDUCATION
14 ADJUSTMENT.—Any amount attributable
15 to the adjustment under section
16 1886(d)(5)(B).

17 “(iv) CAPITAL PAYMENTS.—Any
18 amounts attributable to payments for cap-
19 ital-related costs under section 1886(g).

20 “(D) PERIODIC PAYMENTS FROM MEDI-
21 CARE TRUST FUNDS.—Reimbursements under
22 this paragraph shall be made—

23 “(i) on a periodic basis consistent
24 with the periodicity of payments under this
25 title; and

1 “(ii) from the Federal Hospital Insur-
2 ance Trust Fund established in section
3 1817 and the Federal Supplementary Med-
4 ical Insurance Trust Fund established in
5 section 1841.

6 “(E) CREDITING OF PAYMENTS.—Any
7 payment made to the Department of Veterans
8 Affairs under this subsection shall be deposited
9 in the Department of Veterans Affairs Medical
10 Care Collections Fund established under section
11 1729A of title 38, United States Code.

12 “(4) COST-SHARING REQUIREMENTS.—The Sec-
13 retary of Health and Human Services shall reduce
14 the amount of reimbursement to the Secretary of
15 Veterans Affairs for items and services under the
16 Medicare VA reimbursement program by amounts
17 attributable to applicable deductible, coinsurance,
18 and cost-sharing requirements under this title.

19 “(5) WAIVER OF PROHIBITION ON PAYMENTS
20 TO FEDERAL PROVIDERS OF SERVICES.—The prohi-
21 bition of payments to Federal providers of services
22 under sections 1814(c), 1835(d), and 1862(a)(3)
23 shall not apply to items and services provided under
24 this subsection.

1 “(6) RULES OF CONSTRUCTION.—Nothing in
2 this subsection shall be construed—

3 “(A) as prohibiting the Inspector General
4 of the Department of Health and Human Serv-
5 ices from investigating any matters regarding
6 the expenditure of funds under this subsection,
7 including compliance with the provisions of this
8 title and all other relevant laws;

9 “(B) as adding or requiring additional cri-
10 teria for eligibility for health care benefits fur-
11 nished to veterans by the Secretary of Veterans
12 Affairs, as established under chapter 17 of title
13 38, United States Code; or

14 “(C) subject to the requirements of title
15 38, United States Code, as limiting a veteran’s
16 ability to access such benefits, regardless of the
17 veteran’s status as a Medicare-eligible veteran.

18 “(7) ANNUAL REPORTS.—Not later than one
19 year after the date of implementing the Medicare
20 VA reimbursement program and annually thereafter,
21 the administering Secretaries shall submit to the
22 Congress a report containing the following:

23 “(A) The number of Medicare-eligible vet-
24 erans who elect to receive health care at a De-
25 partment of Veterans Affairs medical facility.

1 “(B) The total amount of reimbursements
2 made under the program from the Federal Hos-
3 pital Insurance Trust Fund established in sec-
4 tion 1817 and the Federal Supplementary Med-
5 ical Insurance Trust Fund established in sec-
6 tion 1841 to the Department of Veterans Af-
7 fairs Medical Care Collections Fund established
8 under section 1729A of title 38, United States
9 Code.

10 “(C) The number and types of items and
11 services provided to Medicare-eligible veterans
12 by Department of Veterans Affairs medical fa-
13 cilities under the program.

14 “(D) An accounting of the manner in
15 which the Department of Veterans Affairs ex-
16 pended funds received through reimbursements
17 under the program.

18 “(E) A detailed description of any changes
19 made to the memorandum of understanding
20 under paragraph (2).

21 “(F) A comparison of the performance
22 data with the performance targets under para-
23 graph (2)(B)(v).

1 “(G) Any other data on the program that
2 the administering Secretaries determine are ap-
3 propriate.

4 “(8) DEFINITIONS.—For purposes of this sub-
5 section:

6 “(A) ADMINISTERING SECRETARIES.—The
7 term ‘administering Secretaries’ means the Sec-
8 retary of Health and Human Services and the
9 Secretary of Veterans Affairs acting jointly.

10 “(B) MEDICARE-ELIGIBLE VETERAN.—The
11 term ‘Medicare-eligible veteran’ means an indi-
12 vidual who is a veteran (as defined in section
13 101(2) of title 38, United States Code) who is
14 eligible for care and services under section
15 1705(a) of title 38, United States Code and
16 who—

17 “(i) is entitled to, or enrolled for, ben-
18 efits under part A; or

19 “(ii) is enrolled for benefits under
20 part B.

21 “(C) NON-SERVICE CONNECTED CONDI-
22 TION.—The term ‘non-service-connected condi-
23 tion’ means a disease or condition that is non-
24 service-connected (as defined in section 101(17)
25 of title 38, United States Code).

1 “(D) DEPARTMENT OF VETERANS AFFAIRS
2 MEDICAL FACILITY.—The term ‘Department of
3 Veterans Affairs medical facility’ means a med-
4 ical facility (as defined in section 8101(3) of
5 title 38, United States Code), alone or in con-
6 junction with other facilities under the jurisdic-
7 tion of the Secretary of Veterans Affairs.”.

8 (b) CONFORMING AMENDMENT.—Section 1729 of
9 title 38, United States Code, is amended by adding at the
10 end the following new subsection:

11 “(j) In any case in which a Medicare-eligible veteran
12 (as defined in section 1862(p)(8)(B) of the Social Security
13 Act (42 U.S.C. 1395y(p)(8)(B))) is furnished care or serv-
14 ices under this chapter for a non-service-connected condi-
15 tion (as defined in section 1862(p)(8)(C) of such Act) the
16 Secretary shall—

17 “(1) seek reimbursement from the Secretary of
18 Health and Human Services for such care and serv-
19 ices under section 1862(p) of such Act; and

20 “(2) collect any applicable deductible, coinsur-
21 ance, or other cost-sharing amount required under
22 title XVIII of the Social Security Act from the vet-
23 eran or from a third party to the extent that the vet-
24 eran (or the provider of the care or services) would
25 be eligible to receive payment for such care or serv-

1 ices from such third party if the care or services had
2 not been furnished by a department or agency of the
3 United States.”.

4 **SEC. 3. GAO REPORT.**

5 (a) IN GENERAL.—Not later than the last day of the
6 three-year period beginning on the date of the enactment
7 of this Act and the last date of each subsequent three-
8 year period, the Comptroller General of the United States
9 shall submit to the Congress a report on the Medicare VA
10 reimbursement program established under section 1862(p)
11 of the Social Security Act, as added by section 2.

12 (b) CONTENTS.—The report under subsection (a)
13 shall contain an analysis of—

14 (1) the impact of the Medicare VA reimburse-
15 ment program on the Federal Hospital Insurance
16 Trust Fund established in section 1817 of the Social
17 Security Act (42 U.S.C. 1395i) and the Federal
18 Supplementary Medical Insurance Trust Fund es-
19 tablished in section 1841 of such Act (42 U.S.C.
20 1395t);

21 (2) whether Medicare-eligible veterans (as de-
22 fined in section 1862(p)(8)(B) of such Act) experi-
23 ence improved access to health care as a result of
24 the program;

1 (3) whether Medicare-eligible veterans experi-
2 ence a change in the quality of care that they receive
3 as a result of this program;

4 (4) the impact of the program on local health
5 care providers and Medicare beneficiaries in the
6 communities surrounding Department of Veterans
7 Affairs medical facilities; and

8 (5) any additional issues deemed appropriate by
9 the Comptroller General of the United States.

10 **SEC. 4. SENSE OF CONGRESS.**

11 It is the sense of the Congress that the amount of
12 funds appropriated to the Department of Veterans Affairs
13 for medical care in any fiscal year beginning on or after
14 the date of the enactment of this Act should not be re-
15 duced as a result of the implementation of the Medicare
16 VA reimbursement program under section 1862(p) of the
17 Social Security Act, as added by section 2(a).

○