

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1791

To restore reductions in veterans benefits made by the Omnibus Budget Reconciliation Act of 1990.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 21, 1993

Mr. SANDERS (for himself, Mr. RAHALL, Mr. TOWNS, Mr. RANGEL, and Mr. WILLIAMS) introduced the following bill; which was referred to the Committee on Veterans' Affairs

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## A BILL

To restore reductions in veterans benefits made by the Omnibus Budget Reconciliation Act of 1990.

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. RESTORATION OF PRESUMPTION OF TOTAL**  
4 **DISABILITY IN DETERMINATION OF PENSION**  
5 **FOR CERTAIN VETERANS.**

6 Section 1502(a) of title 38, United States Code, is  
7 amended by striking out “if such” and all that follows  
8 through “is suffering” and inserting in lieu thereof “if  
9 such person is 65 years of age or older or becomes unem-  
10 ployable after age 65, or is suffering”.

1 **SEC. 2. RESTORATION OF PENSION AMOUNT FOR CERTAIN**  
2 **VETERANS RECEIVING MEDICAID-COVERED**  
3 **NURSING HOME CARE.**

4 Section 5503 of title 38, United States Code, is  
5 amended by striking out subsection (f).

6 **SEC. 3. RESTORATION OF RIGHTS OF CERTAIN SURVIVORS**  
7 **FOR REINSTATEMENT OF BENEFITS ELIGI-**  
8 **BILITY UPON BECOMING SINGLE.**

9 Section 103 of title 38, United States Code, is  
10 amended—

11 (1) in subsection (d)—

12 (A) by inserting “(1)” after “(d)”; and

13 (B) by adding at the end the following:

14 “(2) The remarriage of the surviving spouse of a vet-  
15 eran shall not bar the furnishing of benefits to such person  
16 as the surviving spouse of the veteran if the remarriage  
17 has been terminated by death or has been dissolved by  
18 a court with basic authority to render divorce decrees un-  
19 less the Secretary determines that the divorce was secured  
20 through fraud by the surviving spouse or collusion.

21 “(3) If a surviving spouse ceases living with another  
22 person and holding himself or herself out openly to the  
23 public as that person’s spouse, the bar to granting that  
24 person benefits as the surviving spouse of the veteran shall  
25 not apply.”; and

26 (2) in subsection (e)—

1 (A) by inserting “(1)” after “(e)”; and

2 (B) by adding at the end the following:

3 “(2) The marriage of a child of a veteran shall not  
4 bar the recognition of such child as the child of the veteran  
5 for benefit purposes if the marriage has been terminated  
6 by death or has been dissolved by a court, with basic au-  
7 thority to render divorce decrees unless the Secretary de-  
8 termines that the divorce was secured through fraud by  
9 either party or collusion.”.

10 **SEC. 4. RESTORATION OF MEDICATION BENEFIT WITHOUT**  
11 **COPAYMENT.**

12 (a) REPEAL.—Section 1722A of title 38, United  
13 States Code, is repealed.

14 (b) CLERICAL AMENDMENT.—The table of sections  
15 at the beginning of chapter 17 of such title is amended  
16 by striking out the item relating to section 1722A.

17 **SEC. 5. RESTORATION OF HEALTH-CARE CATEGORIES AND**  
18 **COPAYMENTS.**

19 (a) INPATIENT CARE.—(1) Subsection (a) of section  
20 1710 of title 38, United States Code, is amended—

21 (A) in paragraph (1)(I) by striking “1722(a)”  
22 and inserting in lieu thereof “1722(a)(1)”; and

23 (B) by striking out paragraph (2) and inserting  
24 in lieu thereof the following:

1       “(2)(A) To the extent that resources and facilities are  
2 available, the Secretary may furnish hospital care and  
3 nursing home care which the Secretary determines is need-  
4 ed to a veteran for a non-service-connected disability if  
5 the veteran has an income level described in section  
6 1722(a)(2) of this title.

7       “(B) In the case of a veteran who is not described  
8 in paragraph (1) or in subparagraph (A), the Secretary  
9 may furnish hospital care and nursing home care which  
10 the Secretary determines is needed to the veteran for a  
11 non-service-connected disability—

12               “(i) to the extent that resources and facilities  
13 are otherwise available; and

14               “(ii) subject to the provisions of subsection  
15 (f).”.

16       (2) Subsection (f) of such section is amended—

17               (A) by striking out paragraphs (1) and (2) and  
18 inserting in lieu thereof the following:

19       “(f)(1) The Secretary may not furnish hospital care  
20 or nursing home care under this section to a veteran who  
21 is eligible for such care by reason of subsection (a)(2)(B)  
22 unless the veteran agrees to pay to the United States the  
23 applicable amount determined under paragraph (2) of this  
24 subsection.

1       “(2) A veteran who is furnished hospital care or nurs-  
2 ing home care under this section and who is required  
3 under paragraph (1) to agree to pay an amount to the  
4 United States in order to be furnished such care shall be  
5 liable to the United States for an amount equal to the  
6 lesser of—

7               “(A) the cost of furnishing such care, as deter-  
8 mined by the Secretary, and

9               “(B) the amount determined under paragraph  
10 (3) of this subsection.”; and

11              (B) in subparagraphs (A) and (B) of paragraph  
12 (3), by striking out “(2)(A)(ii)” each place it ap-  
13 pears and inserting in lieu thereof “(2)(B)”.

14       (b) OUTPATIENT CARE.—Subsection (f) of section  
15 1712 of such title is amended—

16              (1) in paragraph (1), by striking out  
17 “1710(a)(2)” and inserting in lieu thereof  
18 “1710(a)(2)(B)”;

19              (2) by redesignating paragraphs (3) and (4) as  
20 paragraphs (5) and (7), respectively;

21              (3) by inserting after paragraph (2) the follow-  
22 ing:

23              “(3) A veteran may not be required to make a pay-  
24 ment under this subsection for services furnished under  
25 subsection (a) during any 90-day period to the extent that

1 such payment would cause the total amount paid by the  
2 veteran under this subsection for medical services fur-  
3 nished during that period and under section 1710(f) of  
4 this title for hospital and nursing home care furnished  
5 during that period to exceed the amount of the inpatient  
6 Medicare deductible in effect on the first day of such 90-  
7 day period.

8 “(4) A veteran may not be required to make a pay-  
9 ment under this subsection if such payment would result  
10 in the veteran paying, under this subsection and section  
11 1710(f) of this title, a total amount greater than four  
12 times the amount of the inpatient Medicare deductible for  
13 care or services, or any combination thereof, furnished  
14 under this chapter during any 365-calendar day period.”;  
15 and

16 (4) by inserting after paragraph (5), as so re-  
17 designated, the following:

18 “(6) For the purposes of this subsection, the term  
19 “inpatient Medicare deductible” means the amount of the  
20 inpatient hospital deductible in effect under section  
21 1813(b) of the Social Security Act (42 U.S.C.  
22 1395e(b)).”.

23 (c) INCOME THRESHOLDS.—(1) Subsection (a) of  
24 section 1722 of such title is amended—

25 (A) by inserting “(1)” after “(a)”;

1 (B) by redesignating paragraphs (1), (2), and  
2 (3) as subparagraphs (A), (B), and (C), respectively;

3 (C) by striking out “amount set forth in sub-  
4 section (b)” in subparagraph (C), as so redesign-  
5 nated, and inserting in lieu thereof “Category A  
6 threshold”; and

7 (D) by adding at the end the following:

8 “(2) For the purposes of section 1710(a)(2)(A) of  
9 this title, a veteran’s income level is described in this para-  
10 graph if the veteran’s attributable income is not greater  
11 than the Category B threshold.”.

12 (2) Subsection (b) of such section is amended to read  
13 as follows:

14 “(b) For the purposes of this section:

15 “(1) The Category A threshold—

16 “(A) for the calendar year beginning on  
17 January 1, 1989, is—

18 “(i) \$16,466 in the case of a veteran  
19 with no dependents; and

20 “(ii) \$19,759 in the case of a veteran  
21 with one dependent, plus \$1,098 for each  
22 additional dependent; and

23 “(B) for a calendar year beginning after  
24 January 1, 1989, is the amount in effect for  
25 purposes of this paragraph for the preceding

1           calendar year as adjusted under subsection (c)  
2           of this subsection.

3           “(2) The Category B threshold—

4                   “(A) for the calendar year beginning on  
5           January 1, 1989, is—

6                           “(i) \$21,954 in the case of a veteran  
7                           with no dependents; and

8                           “(ii) \$27,440 in the case of a veteran  
9                           with one dependent, plus \$1,098 for each  
10                          additional dependent; and

11                          “(B) for a calendar year beginning after  
12           January 1, 1989, is the amount in effect for  
13           purposes of this paragraph for the preceding  
14           calendar year as adjusted under subsection (c)  
15           of this subsection.”.

16           (3) Subsection (c) of such section is amended by in-  
17           serting “paragraphs (1) and (2) of” after “in effect  
18           under”.

19           (4) Paragraph (2) of subsection (d) of such section  
20           is amended to read as follows:

21           “(2) A determination described in this paragraph is  
22           a determination—

23                          “(A) that for the purposes of subsection  
24           (a)(1)(C) of this section a veteran’s attributable in-

1       come is not greater than the Category A threshold;  
2       or

3               “(B) that for the purposes of subsection (a)(2)  
4       of this section, a veteran’s attributable income is not  
5       greater than the Category B threshold.”.

6       (5) Subsection (e) of such section is amended—

7               (A) in paragraph (1), by striking out “the  
8       amount determined under subsection (b) of this sec-  
9       tion” and inserting in lieu thereof “the Category A  
10      threshold or the Category B threshold, as appro-  
11      priate”; and

12              (B) by striking out paragraph (2) and inserting  
13      in lieu thereof the following:

14      “(2)(A) A veteran is described in this paragraph for  
15      the purposes of subsection (a)(1) if—

16              “(i) the veteran has an attributable income  
17      greater than the Category A threshold; and

18              “(ii) the current projections of such veteran’s  
19      income for the current year are that the veteran’s  
20      income for such year will be substantially below such  
21      threshold.

22      “(B) A veteran is described in this paragraph for the  
23      purpose of subsection (a)(2) of this section if—

24              “(i) the veteran has an attributable income  
25      greater than the Category B threshold; and

1           “(ii) the current projections of such veteran’s  
2           income for the current year are that the veteran’s  
3           income for such year will be substantially below such  
4           threshold.”.

5   **SEC. 6. RESTORATION OF EDUCATION BENEFITS.**

6           Section 3102(1) of title 38, United States Code, is  
7           amended by striking out “at a rate of 20 percent or more”  
8           after “compensable” each place it appears.

9   **SEC. 7. RESTORATION OF BURIAL AND GRAVE MARKER**  
10                                   **BENEFITS.**

11           (a) **HEADSTONE ALLOWANCE.**—Section 2306 of title  
12           38, United States Code, is amended by adding at the end  
13           the following:

14           “(e) In lieu of furnishing a headstone or marker  
15           under subsection (a)(2) or (b), the Secretary, in the Sec-  
16           retary’s discretion, having due regard for the cir-  
17           cumstances in each case, may reimburse the person enti-  
18           tled to request such headstone or marker for the cost of  
19           acquiring a non-Government headstone or marker for  
20           placement in any cemetery other than a national cemetery  
21           in connection with the burial or memorialization of the de-  
22           ceased individual. The cost referred to in the preceding  
23           sentence is the cost actually incurred by or on behalf of  
24           such person or the cost prepaid by the deceased individual  
25           as the case may be. Reimbursement under this subsection

1 may be made only upon the request of the person entitled  
2 to request the headstone or marker and may not be made  
3 in an amount in excess of the average actual cost, as deter-  
4 mined by the Secretary, of headstones and markers fur-  
5 nished under subsections (a) and (b).”.

6 (b) PLOT ALLOWANCE.—Section 2303(b)(2) of such  
7 title is amended by striking out “(other than” and all that  
8 follows through “any war)”.

9 **SEC. 8. RESTORATION OF CRITERIA FOR LINE-OF-DUTY**  
10 **AND MISCONDUCT DETERMINATIONS.**

11 Sections 105(a), 1110, and 1131 of title 38, United  
12 States Code, are each amended by striking out “a result  
13 of the person’s own willful misconduct or abuse of alcohol  
14 or drugs” and inserting in lieu thereof “the result of the  
15 person’s own willful misconduct”.

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