

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4788

To amend title 38, United States Code, to reform and simplify criteria for eligibility for health care provided by the Department of Veterans Affairs, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 19, 1994

Mr. STUMP (for himself, Mr. SMITH of New Jersey, Mr. BILIRAKIS, Mr. RIDGE, Mr. SPENCE, Mr. HUTCHINSON, Mr. EVERETT, Mr. BUYER, Mr. QUINN, Mr. BACHUS of Alabama, Mr. LINDER, Mr. KING, and Mr. STEARNS) introduced the following bill; which was referred to the Committee on Veterans' Affairs

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## A BILL

To amend title 38, United States Code, to reform and simplify criteria for eligibility for health care provided by the Department of Veterans Affairs, 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' Health Care  
5 Eligibility Reform Act of 1994".

1 **SEC. 2. VETERANS HEALTH CARE ELIGIBILITY REFORM.**

2 Chapter 17 of title 38, United States Code, is amend-  
3 ed as follows:

4 (1) Section 1701 is amended by adding at the  
5 end the following new paragraphs:

6 “(10) The term ‘continuum of health care’ in-  
7 cludes specialized treatment and rehabilitative serv-  
8 ices of the Department, including comprehensive  
9 prevention and health screening programs and serv-  
10 ices to treat needs of disabled veterans with spinal  
11 cord dysfunction, blindness, prosthetics, and mental  
12 illness.

13 “(11) The term ‘noninstitutional long-term  
14 care’ includes the following services:

15 “(A) Hospital-based home care.

16 “(B) Adult day health care.

17 “(C) Fee basis care.

18 “(D) Hospice care.

19 “(E) Homemaker services.

20 “(F) Home health aid.

21 “(G) Case management services.

22 “(H) Congregate meals.

23 “(I) Home delivered meals.

24 “(J) Senior center services.

25 “(K) Shopping and transportation services.

26 “(L) Phone check services.”.

1           (2) Section 1710(a)(1) is amended by striking  
2 out “shall furnish” and all that follows through  
3 “which the” and inserting in lieu thereof “shall fur-  
4 nish a continuum of health care (including hospital  
5 care, outpatient medical services provided on an out-  
6 patient or ambulatory basis, and noninstitutional  
7 long-term care) which the”.

8           (3) Subchapter II is amended by inserting after  
9 section 1710 the following new section:

10 **“§ 1710A. Institutional long-term care for certain vet-**  
11 **erans**

12           “(a) The Secretary shall provide institutional nursing  
13 home care to any veteran who is described in subpara-  
14 graph (A) or (D) of section 1710(a)(1), or in subpara-  
15 graph (C) of section 1712(a)(1), of this title or who is  
16 in receipt of pension from the Secretary.

17           “(b) If a veteran who is provided nursing home care  
18 by reason of subsection (a) is also eligible for payment  
19 for the costs of nursing home care under a State plan title  
20 XIX of the Social Security Act, the Secretary shall be enti-  
21 tled to recover from that State plan the amount that the  
22 State plan would pay for that care if provided by an au-  
23 thorized provider. For purposes of this subsection, the vet-  
24 eran shall be deemed to have paid any deductible or

1 copayment otherwise required as a condition of payment  
2 by the State plan.”.

3 (4) Section 1710(d) is amended by inserting  
4 “1710A or” after “section”.

5 (5) Subchapter III is amended by inserting  
6 after section 1729 the following new section:

7 **“§ 1729A. Medicare coverage and reimbursement**

8 “(a) For purposes of any program administered by  
9 the Secretary of Health and Human Services under title  
10 XVIII of the Social Security Act, a Department facility  
11 shall be deemed to be a Medicare provider.

12 “(b)(1) A VA medical center (or group of medical  
13 centers) shall be considered to be a Medicare HMO.

14 “(2) For purposes of this section, the term ‘Medicare  
15 HMO’ means an eligible organization under section 1876  
16 of the Social Security Act.

17 “(c) In the case of care for a non-service-connected  
18 disability that is provided to a veteran who is eligible for  
19 benefits under the Medicare program under title XVIII of  
20 the Social Security Act, the Secretary of Health and  
21 Human Services shall reimburse a Department health-care  
22 facility providing services as a Medicare provider or Medi-  
23 care HMO in the same amounts and under the same terms  
24 and conditions as that Secretary reimburses other Medi-  
25 care providers or Medicare HMOs, respectively. The Sec-

1 retary of Health and Human Services shall include with  
2 each such reimbursement a Medicare explanation of bene-  
3 fits.

4 “(d) In the case of a veteran whose eligibility for hos-  
5 pital care from the Department is by reason of section  
6 1710(a)(2) of this title, the Secretary shall, when provid-  
7 ing care to the veteran for which the Secretary receives  
8 reimbursement under this section, require the veteran to  
9 pay to the Department any applicable deductible or  
10 copayment that is not covered by Medicare.”.

11 **SEC. 3. PLAN FOR ENTITLEMENT TO INSTITUTIONAL NURS-**  
12 **ING HOME CARE FOR OTHER VETERANS.**

13 (a) ESTABLISHMENT OF PLAN.—The Secretary of  
14 Veterans Affairs shall develop a plan to implement (over  
15 a specified period of years) the provision of institutional  
16 long-term care for any veteran described in subsection (b).  
17 The plan may provide for the provision of institutional  
18 long-term care through facilities of the Department of  
19 Veterans Affairs or through a long-term care insurance  
20 contract, or a combination thereof. In specifying benefits,  
21 or a proposed range of benefits, under the plan, the Sec-  
22 retary shall consider a representative range of the dif-  
23 ferent types of health benefits provisions (which include  
24 cost-sharing) typically offered as long-term institutional

1 care coverage in the small employer health coverage mar-  
2 ket.

3 (b) COVERED VETERANS.—The plan shall propose to  
4 cover any veteran not covered by section 1710A of title  
5 38, United States Code, as added by section 2, who—

6 (1) has a service-connected disability rated at  
7 less than 50 percent;

8 (2) has an annual income (as determined under  
9 section 1503 of such title) that does not exceed three  
10 times the maximum annual rate of pension that  
11 would be applicable to the veteran if the veteran  
12 were eligible for pension under section 1521(d) of  
13 such title;

14 (3) has a catastrophic nonservice-connected dis-  
15 ability (as defined by the Secretary); or

16 (4) requires institutional long-term care as a  
17 follow up to inpatient care, as authorized under sec-  
18 tion 1720 of this title.

19 (c) PREMIUMS AND COPAYMENTS.—The plan shall  
20 include the establishment of a schedule of premiums and  
21 copayments for care provided through Department of Vet-  
22 erans Affairs institutional care programs in effect on the  
23 day before the date of the enactment of this Act. The plan  
24 shall specify a range of premiums and copayments that  
25 would apply based upon different combinations of levels

1 of payments by the Government, copayments, and pre-  
2 miums, as specified in the plan.

3 (d) LONG-TERM CARE INSURANCE CONTRACT.—For  
4 purposes of this section, the term ‘long-term care insur-  
5 ance contract’ means any insurance contract issued if—

6 (1) the only insurance protection provided  
7 under the contract is coverage of institutional long-  
8 term care services (as specified in the contract) and  
9 benefits incidental to such coverage,

10 (2) the maximum benefit under the policy for  
11 expenses incurred for any day does not exceed \$200,

12 (3) the contract does not cover expenses in-  
13 curred for services or items to the extent that such  
14 expenses are reimbursable under title XVIII of the  
15 Social Security Act or would be so reimbursable but  
16 for the application of a deductible or coinsurance  
17 amount,

18 (4) the contract is guaranteed renewable,

19 (5) the contract does not have any cash surren-  
20 der value, and

21 (6) all refunds of premiums, and all policy-  
22 holder dividends or similar amounts, under the con-  
23 tract are to be applied as a reduction in future pre-  
24 miums or to increase future benefits.

1 (e) REPORT TO CONGRESS.—Not later than Septem-  
 2 ber 30, 1996, the Secretary shall submit to Congress a  
 3 report on the plan. The report shall include—

4 (1) a cost analysis, including a range of pre-  
 5 miums and copayments and Government cost-shar-  
 6 ing;

7 (2) a discussion of the cost of establishing a  
 8 long-term care insurance program for veterans de-  
 9 scribed in subsection (b) using contract authority (if  
 10 such contract authority is provided by law); and

11 (3) a draft of legislation to make any necessary  
 12 changes in law to enable the Department to imple-  
 13 ment the plan.

14 **SEC. 4. ENROLLMENT SYSTEM FOR OTHER PERSONS.**

15 (a) IN GENERAL.—(1) Title 38, United States Code,  
 16 is amended by inserting after chapter 17 the following new  
 17 chapter:

18 **“CHAPTER 18—VA GROUP HEALTH PLAN**

“Sec.

“1801. Definitions.

“1802. VA Group Health Plan.

“1803. Enrollment.

“1804. Limitation on preexisting conditions.

“1805. Plan to be self supporting.

“1806. Annual report.

19 **“§ 1801. Definitions**

20 “For purposes of this chapter:

1           “(1) The term ‘eligible veteran’ means any vet-  
2           eran other than a veteran eligible for health care  
3           under section 1710(a)(1) of this title.

4           “(2) The term ‘VA enrollee’ means an individ-  
5           ual enrolled in the VA Group Health Plan.

6   **“§ 1802. VA Group Health Plan**

7           “(a) The Secretary shall administer a program of  
8           health insurance under this chapter to be known as the  
9           VA Group Health Plan. The Secretary may provide such  
10          insurance directly or may contract with an insurance pro-  
11          vider in the private sector for the provision of such insur-  
12          ance. The plan may be established as a single, nation-wide  
13          plan or as a composite of regional health insurance plans.

14          “(b) The Secretary shall establish and carry out the  
15          VA Group Health Plan as a managed-care plan and so  
16          that it meets the following requirements:

17                 “(1) The plan shall be designed to be self-sus-  
18                 taining through required premiums, copayments,  
19                 deductibles, and other charges, and without appro-  
20                 priated funds.

21                 “(2) The plan shall provide such benefits as the  
22                 Secretary determines.

23          “(c) The Secretary may award contracts under this  
24          section for the operation of the VA Group plan.

1 “(d) The Secretary may provide treatment in Depart-  
2 ment facilities for any enrollee, if cost effective.

3 **“§ 1803. Enrollment**

4 “(a) The following individuals are eligible to enroll  
5 in the VA Group Health Plan:

6 “(1) Any eligible veteran.

7 “(2) The spouse or child of any veteran.

8 “(b)(1) The Secretary of Veterans Affairs shall estab-  
9 lish an enrollment (and disenrollment) process for the VA  
10 Group Health Plan in accordance with this subsection.  
11 Such process shall be established in consultation with vet-  
12 erans and other individuals to be served by the plan.

13 “(2) For each eligible veteran, when the veteran first  
14 becomes eligible to enroll in the VA Group Health Plan,  
15 there shall be an initial enrollment period (of not less than  
16 30 days) during which the veteran may enroll in the plan.

17 “(3) The Secretary shall establish an annual period,  
18 of not less than 30 days, during which eligible veterans  
19 may enroll in the VA Group Health Plan.

20 “(4) If a veteran enrolls in the VA Group Health  
21 Plan, the veteran may at the same time enroll, as a family  
22 enrollment, the veteran’s spouse and children in the plan.

23 “(5) In the case of individuals who through marriage,  
24 divorce, birth or adoption of a child, or similar cir-  
25 cumstances, experience a change in family composition,

1 the Secretary shall provide for a special enrollment period  
2 in which the individual is permitted to change the individ-  
3 ual or family basis of coverage. The circumstances under  
4 which such special enrollment periods are required and the  
5 duration of such periods shall be specified by the Sec-  
6 retary.

7 “(6) The Secretary shall provide for a special transi-  
8 tional enrollment period during which eligible individuals  
9 may first enroll.

10 “(c) Enrollment of the spouse (including a child of  
11 the spouse) and any dependent child of an eligible veteran  
12 shall be considered to be timely if a request for enrollment  
13 is made either—

14 “(1) within 30 days of the date of the marriage  
15 or of the date of the birth or adoption of a child,  
16 if family coverage is available as of such date, or

17 “(2) within 30 days of the date family coverage  
18 is first made available.

19 “(d) Family coverage shall become effective not later  
20 than the first day of the first month beginning after the  
21 date of the marriage or the date of birth or adoption of  
22 the child (as the case may be).

23 “(e) The Secretary may terminate coverage for  
24 nonpayment of premiums.

1 “(f) Coverage of a spouse under a policy under this  
2 chapter may not be canceled by reason of the death of  
3 the veteran unless the surviving spouse remarries.

4 **“§ 1804. Limitation on preexisting conditions**

5 “(a) The VA Group Health Plan may not impose  
6 (and an insurer under that plan may not require the Sec-  
7 retary impose through a waiting period for coverage under  
8 the plan or similar requirement) a limitation or exclusion  
9 of benefits relating to treatment of a condition based on  
10 the fact that the condition preexisted the effective date  
11 of the plan with respect to an individual if—

12 “(1) the condition relates to a condition that  
13 was not diagnosed or treated within three months  
14 before the date of coverage under the plan;

15 “(2) the limitation or exclusion extends over  
16 more than six months after the date of coverage  
17 under the plan;

18 “(3) the limitation or exclusion applies to an in-  
19 dividual who, as of the date of birth, was covered  
20 under the plan; or

21 “(4) the limitation or exclusion relates to preg-  
22 nancy.

23 In the case of an individual who is eligible for coverage  
24 under a plan but for a waiting period imposed by the em-  
25 ployer, in applying paragraphs (1) and (2), the individual

1 shall be treated as having been covered under the plan  
2 as of the earliest date of the beginning of the waiting pe-  
3 riod.

4 “(b)(1) The Secretary, for purposes of the VA Group  
5 Health Plan, shall waive any period applicable to a pre-  
6 existing condition for similar benefits with respect to an  
7 individual to the extent that the individual, before the date  
8 of such individual’s enrollment in such plan, was covered  
9 for the condition under any other health plan that was  
10 in effect before such date.

11 “(2) Paragraph (1) shall no longer apply if there is  
12 a continuous period of more than 60 days (or, in the case  
13 of an individual who loses coverage under a group health  
14 plan due to termination of employment, six months) on  
15 which the individual was not covered under a group health  
16 plan.

17 “(3) In applying paragraph (2), any waiting period  
18 imposed by an employer before an employee is eligible to  
19 be covered under a plan shall be treated as a period in  
20 which the employee was covered under a group health  
21 plan.

22 **“§ 1805. Plan to be self supporting**

23 “The Secretary shall administer the VA Group  
24 Health Plan so as to ensure that no appropriated funds  
25 are required for the operation of the plan (other than as

1 necessary for startup and transition costs). The Secretary  
 2 shall establish such premiums, copayments, and other  
 3 charges for the plan as necessary.

4 **“§ 1806. Annual report**

5       “(a) The Secretary shall submit to Congress an an-  
 6 nual report on the VA Group Health Plan. The report  
 7 shall provide information on prices, health outcomes, and  
 8 enrollee satisfaction under the plan and any other infor-  
 9 mation the Secretary considers appropriate concerning the  
 10 quality of the plan, including a breakdown of the portion  
 11 of premiums under the plan that are attributable to the  
 12 overhead operations of the plan.

13       “(b) The report shall be submitted each year before  
 14 the annual general enrollment period. The Secretary shall  
 15 make such report available to other interested persons.”.

16       (2) The table of chapters at the beginning of part  
 17 II of title 38, United States Code, is amended by inserting  
 18 after the item relating to chapter 17 the following new  
 19 item:

“18. VA Group Health Plan ..... 1801.”.

20       (b) INITIAL REPORT.—The initial report of the Sec-  
 21 retary of Veterans Affairs under section 1806 of title 38,  
 22 United States Code, as added by subsection (a), shall be  
 23 submitted no later than September 30, 1995. The report  
 24 shall include a cost analysis for the plan and a range of

1 premiums and copayments that may be implemented  
2 under the plan.

3 **SEC. 5. MANAGED CARE SYSTEM OF HEALTH DELIVERY.**

4 (a) Chapter 73 of title 38, United States Code, is  
5 amended by inserting after section 7306 the following new  
6 sections:

7 **“§ 7307. Managed care**

8 “(a) The Secretary shall administer the health pro-  
9 grams of the Veterans Health Administration through use  
10 of the model of medical practice known as ‘managed care’.

11 “(b) In implementing a managed care system, the  
12 Under Secretary shall, to the extent possible—

13 “(1) shift the focus of care provided by the Vet-  
14 erans Health Administration to primary care;

15 “(2) establish enhanced quality assurance  
16 mechanisms; and

17 “(3) establish utilization review procedures to  
18 prevent inefficient practices.

19 **“§ 7308. Veterans Service Areas**

20 “The Secretary shall organize the health care delivery  
21 services and resources of the Veterans Health Administra-  
22 tion into geographic regions to be known as Veterans Serv-  
23 ice Areas.”.

1 (b) The table of sections at the beginning of such  
2 chapter is amended by inserting after the item relating  
3 to section 7306 the following new items:

“7307. Managed care.  
“7308. Veterans Service Areas.”.

4 (c) If, as of the date of the enactment of this Act,  
5 the position of Under Secretary for Health of the Depart-  
6 ment of Veterans Affairs is vacant, the provisions of sec-  
7 tion 7308 of title 38, United States Code, as added by  
8 subsection (a), shall not take effect until an individual is  
9 appointed to that position.

10 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

11 There are authorized to be appropriated to the Sec-  
12 retary of Veterans Affairs for each of fiscal years 1995  
13 through 1999 (in constant fiscal year 1995 dollars)—

14 (1) \$200,000,000 to acquire medical equipment  
15 to relieve the existing medical equipment backlog in  
16 Department of Veterans Affairs medical facilities;  
17 and

18 (2) \$500,000,000 for improvements of infra-  
19 structure, patient care amenities, primary care serv-  
20 ices, and personnel and for medical facility construc-  
21 tion projects (subject to section 8104 of title 38,  
22 United States Code).

○