

105TH CONGRESS
2D SESSION

H. R. 3828

To amend title XVIII of the Social Security Act to improve access to health care services for certain Medicare-eligible veterans.

IN THE HOUSE OF REPRESENTATIVES

MAY 12, 1998

Mr. THOMAS (for himself, Mr. STUMP, Mr. BILIRAKIS, Mr. SPENCE, Mr. RANGEL, Mr. STEARNS, Mr. HOUGHTON, Mrs. JOHNSON of Connecticut, Mr. SAM JOHNSON of Texas, Mr. MCCRERY, Mr. BARRETT of Nebraska, Mr. BEREUTER, Mr. BOEHLERT, Mrs. CHENOWETH, Mr. CHRISTENSEN, Mr. COLLINS, Mr. COMBEST, Mr. COOK, Mr. COOKSEY, Mr. CRANE, Mr. CUNNINGHAM, Mr. DEAL of Georgia, Mr. DOYLE, Mr. EDWARDS, Mr. EHRLICH, Mrs. EMERSON, Mr. ENGLISH of Pennsylvania, Mr. ENSIGN, Mr. EVERETT, Mrs. FOWLER, Mr. FOX of Pennsylvania, Mr. FROST, Mr. GONZALEZ, Mr. GOODLING, Ms. GRANGER, Mr. GREENWOOD, Mr. HALL of Ohio, Mr. HALL of Texas, Mr. HAYWORTH, Mr. HEFNER, Mr. HERGER, Mr. HOLDEN, Mr. HULSHOF, Mr. HUNTER, Mr. HUTCHINSON, Mrs. KELLY, Mr. KUCINICH, Mr. LAHOOD, Mr. LAMPSON, Mr. LANTOS, Mr. LIPINSKI, Mr. MANZULLO, Mr. METCALF, Mr. NETHERCUTT, Mr. PORTMAN, Mr. REDMOND, Mrs. ROUKEMA, Mr. RUSH, Mr. SANDERS, Mr. SANDLIN, Mr. SAXTON, Mr. SERRANO, Mr. SKEEN, Mr. SMITH of New Jersey, Mr. SOLOMON, Mr. STUPAK, Mr. TANNER, Mrs. THURMAN, Mr. TIAHRT, Mr. UPTON, Mr. WALSH, Mr. WATKINS, Mr. WATTS of Oklahoma, Mr. WHITFIELD, and Ms. WOOLSEY) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Veterans' Affairs, and Commerce, 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 amend title XVIII of the Social Security Act to improve

access to health care services for certain Medicare-eligible veterans.

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; PURPOSES.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Veterans Medicare Access Improvement Act of 1998”.

6 (b) **PURPOSES.**—The purposes of this Act are—

7 (1) to establish a program that permits Medi-
8 care-eligible veterans who have a service-connected
9 disability or are financially needy and for whom ac-
10 cess to medical care of the Department of Veterans
11 Affairs has been historically deficient because of geo-
12 graphic remoteness or inaccessibility to receive their
13 Medicare benefits through a service network of pro-
14 viders established by the Department of Veterans
15 Affairs; and

16 (2) to establish a 3-year demonstration project
17 that permits other Medicare-eligible veterans to re-
18 ceive such benefits through the Department of Vet-
19 erans Affairs.

20 **SEC. 2. IMPROVEMENT IN VETERANS’ ACCESS TO SERVICES**
21 **UNDER MEDICARE PROGRAM.**

22 (a) **IN GENERAL.**—Title XVIII of the Social Security
23 Act, as amended by sections 4603, 4801, and 4015(a) of

1 the Balanced Budget Act of 1997, is amended by adding
2 at the end the following:

3 “IMPROVING VETERANS’ ACCESS TO SERVICES

4 “SEC. 1897. (a) DEFINITIONS.—In this section:

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

9 “(2) PROGRAM.—The term ‘program’ means
10 the program established under this section with re-
11 spect to category A Medicare-eligible veterans.

12 “(3) DEMONSTRATION PROJECT; PROJECT.—
13 The terms ‘demonstration project’ and ‘project’
14 mean the demonstration project carried out under
15 this section with respect to category C Medicare-eli-
16 gible veterans.

17 “(4) MEDICARE-ELIGIBLE VETERANS.—

18 “(A) CATEGORY A MEDICARE-ELIGIBLE
19 VETERAN.—The term ‘category A Medicare-eli-
20 gible veteran’ means an individual—

21 “(i) who is a veteran (as defined in
22 section 101(2) of title 38, United States
23 Code) and is described in paragraph (1) or
24 (2) of section 1710(a) of title 38, United
25 States Code;

1 “(ii) who is entitled to hospital insur-
2 ance benefits under part A of the Medicare
3 program and is enrolled in the supple-
4 mentary medical insurance program under
5 part B of the Medicare program; and

6 “(iii) for whom the medical center of
7 the Department of Veterans Affairs that is
8 closest to the individual’s place of resi-
9 dence is geographically remote or inaccess-
10 sible from such place.

11 “(B) CATEGORY C MEDICARE-ELIGIBLE
12 VETERAN.—The term ‘category C Medicare-eli-
13 gible veteran’ means an individual who—

14 “(i) is a veteran (as defined in section
15 101(2) of title 38, United States Code)
16 and is described in section 1710(a)(3) of
17 title 38, United States Code; and

18 “(ii) is entitled to hospital insurance
19 benefits under part A of the Medicare pro-
20 gram and is enrolled in the supplementary
21 medical insurance program under part B
22 of the Medicare program.

23 “(5) MEDICARE HEALTH CARE SERVICES.—The
24 term ‘Medicare health care services’ means items or
25 services covered under part A or B of this title.

1 “(6) TRUST FUNDS.—The term ‘trust funds’
2 means the Federal Hospital Insurance Trust Fund
3 established in section 1817 and the Federal Supple-
4 mentary Medical Insurance Trust Fund established
5 in section 1841.

6 “(b) PROGRAM AND DEMONSTRATION PROJECT.—

7 “(1) IN GENERAL.—

8 “(A) ESTABLISHMENT.—The administer-
9 ing Secretaries are authorized to establish—

10 “(i) a program (under an agreement
11 entered into by the administering Secretar-
12 ies) under which the Secretary of Health
13 and Human Services shall reimburse the
14 Secretary of Veterans Affairs, from the
15 trust funds, for Medicare health care serv-
16 ices furnished to category A Medicare-eli-
17 ble veterans; and

18 “(ii) a demonstration project (under
19 such an agreement) under which the Sec-
20 retary of Health and Human Services shall
21 reimburse the Secretary of Veterans Af-
22 fairs, from the trust funds, for Medicare
23 health care services furnished to category
24 C Medicare-eligible veterans.

1 “(B) AGREEMENT.—The agreement en-
2 tered into under subparagraph (A) shall include
3 at a minimum—

4 “(i) a description of the benefits to be
5 provided to the participants of the program
6 and the demonstration project established
7 under this section;

8 “(ii) a description of the eligibility
9 rules for participation in the program and
10 demonstration project, including any cost
11 sharing requirements;

12 “(iii) a description of the process for
13 enrolling veterans for participation in the
14 program, which process may, to the extent
15 practicable, be administered in the same or
16 similar manner to the registration process
17 established to implement section 1705 of
18 title 38, United States Code;

19 “(iv) a description of how the pro-
20 gram and the demonstration project will
21 satisfy the requirements under this title;

22 “(v) a description of the sites selected
23 under paragraph (2);

24 “(vi) a description of how reimburse-
25 ment requirements under subsection (g)

1 and maintenance of effort requirements
2 under subsection (h) will be implemented
3 in the program and in the demonstration
4 project;

5 “(vii) a statement that all data of the
6 Department of Veterans Affairs and of the
7 Department of Health and Human Serv-
8 ices that the administering Secretaries de-
9 termine is necessary to conduct independ-
10 ent estimates and audits of the mainte-
11 nance of effort requirement, the annual
12 reconciliation, and related matters required
13 under the program and the demonstration
14 project shall be available to the administer-
15 ing Secretaries;

16 “(viii) a description of any require-
17 ment that the Secretary of Health and
18 Human Services waives pursuant to sub-
19 section (d);

20 “(ix) a requirement that the Secretary
21 of Veterans Affairs undertake and main-
22 tain outreach and marketing activities,
23 consistent with capacity limits under the
24 program, for category A Medicare-eligible
25 veterans;

1 “(x) a description of how the admin-
2 istering Secretaries shall conduct the data
3 matching program under subparagraph
4 (F), including the frequency of updates to
5 the comparisons performed under subpara-
6 graph (F)(ii); and

7 “(xi) a statement by the Secretary of
8 Veterans Affairs that the type or amount
9 of health care services furnished under
10 chapter 17 of title 38, United States Code,
11 to veterans who are entitled to benefits
12 under part A or enrolled under part B, or
13 both, shall not be reduced by reason of the
14 program or project.

15 “(C) COST-SHARING UNDER DEMONSTRA-
16 TION PROJECT.—Notwithstanding any provision
17 of title 38, United States Code, in order—

18 “(i) to maintain and broaden access
19 to services,

20 “(ii) to encourage appropriate use of
21 services, and

22 “(iii) to control costs,

23 the Secretary of Veterans Affairs may establish
24 enrollment fees and copayment requirements
25 under the demonstration project under this sec-

1 tion consistent with subsection (d)(1). Such fees
2 and requirements may vary based on income.

3 “(D) HEALTH CARE BENEFITS.—The ad-
4 ministering Secretaries shall prescribe the mini-
5 mum health care benefits to be provided under
6 the program and demonstration project to
7 Medicare-eligible veterans enrolled in the pro-
8 gram or project. Those benefits shall include at
9 least all Medicare health care services covered
10 under this title.

11 “(E) ESTABLISHMENT OF SERVICE NET-
12 WORKS.—

13 “(i) USE OF VA OUTPATIENT CLIN-
14 ICS.—The Secretary of Veterans Affairs, to
15 the extent practicable, shall use outpatient
16 clinics of the Department of Veterans Af-
17 fairs in providing services under the pro-
18 gram.

19 “(ii) AUTHORITY TO CONTRACT FOR
20 SERVICES.—The Secretary of Veterans Af-
21 fairs may enter into contracts and arrange-
22 ments with entities (such as private practi-
23 tioners, providers of services, preferred
24 provider organizations, and health care
25 plans) for the provision of services for

1 which the Secretary of Health and Human
2 Services is responsible under the program
3 or project under this section and shall take
4 into account the existence of qualified
5 practitioners and providers in the areas in
6 which the program or project is being con-
7 ducted. Under such contracts and arrange-
8 ments, such Secretary of Health and
9 Human Services may require the entities
10 to furnish such information as such Sec-
11 retary may require to carry out this sec-
12 tion.

13 “(F) DATA MATCH.—

14 “(i) ESTABLISHMENT OF DATA
15 MATCHING PROGRAM.—The administering
16 Secretaries shall establish a data matching
17 program under which there is an exchange
18 of information of the Department of Veter-
19 ans Affairs and of the Department of
20 Health and Human Services as is nec-
21 essary to identify veterans who are entitled
22 to benefits under part A or enrolled under
23 part B, or both, in order to carry out this
24 section. The provisions of section 552a of
25 title 5, United States Code, shall apply

1 with respect to such matching program
2 only to the extent the administering Sec-
3 retaries find it feasible and appropriate in
4 carrying out this section in a timely and
5 efficient manner.

6 “(ii) PERFORMANCE OF DATA
7 MATCH.—The administering Secretaries,
8 using the data matching program estab-
9 lished under clause (i), shall perform a
10 comparison in order to identify veterans
11 who are entitled to benefits under part A
12 or enrolled under part B, or both. To the
13 extent such Secretaries deem appropriate
14 to carry out this section, the comparison
15 and identification may distinguish among
16 such veterans by category of veterans, by
17 entitlement to benefits under this title, or
18 by other characteristics.

19 “(iii) DEADLINE FOR FIRST DATA
20 MATCH.—The administering Secretaries
21 shall first perform a comparison under
22 clause (ii) by not later than October 31,
23 1998.

24 “(iv) CERTIFICATION BY INSPECTOR
25 GENERAL.—

1 “(I) IN GENERAL.—The admin-
2 istering Secretaries may not conduct
3 the program unless the Inspector Gen-
4 eral of the Department of Health and
5 Human Services certifies to Congress
6 that the administering Secretaries
7 have established the data matching
8 program under clause (i) and have
9 performed a comparison under clause
10 (ii).

11 “(II) DEADLINE FOR CERTIFI-
12 CATION.—Not later than December
13 15, 1998, the Inspector General of the
14 Department of Health and Human
15 Services shall submit a report to Con-
16 gress containing the certification
17 under subclause (I) or the denial of
18 such certification.

19 “(2) NUMBER OF SITES.—The program and
20 demonstration project shall be conducted in geo-
21 graphic service areas of the Department of Veterans
22 Affairs, designated jointly by the administering Sec-
23 retaries after review of all such areas, as follows:

24 “(A) PROGRAM SITES.—

1 “(i) IN GENERAL.—Except as pro-
2 vided in clause (ii), the program shall be
3 conducted in not more than 3 such areas
4 with respect to category A Medicare-eli-
5 gible veterans.

6 “(ii) ADDITIONAL PROGRAM SITES.—
7 Subject to the certification required under
8 subsection (h)(1)(B)(iii), for a year begin-
9 ning on or after January 1, 2003, the pro-
10 gram shall be conducted in such areas as
11 are designated jointly by the administering
12 Secretaries after review of all such areas.

13 “(B) PROJECT SITES.—

14 “(i) IN GENERAL.—The demonstra-
15 tion project shall be conducted in not more
16 than 3 such areas with respect to category
17 C Medicare-eligible veterans.

18 “(ii) MANDATORY SITE.—At least one
19 of the areas designated under clause (i)
20 shall encompass the catchment area of a
21 military medical facility which was closed
22 pursuant to either the Defense Base Clo-
23 sure and Realignment Act of 1990 (part A
24 of title XXIX of Public Law 101–510; 10
25 U.S.C. 2687 note) or title II of the De-

1 fense Authorization Amendments and Base
2 Closure and Realignment Act (Public Law
3 100–526; 10 U.S.C. 2687 note).

4 “(3) RESTRICTION.—Funds from the program
5 or demonstration project shall not be used for—

6 “(A) the construction of any treatment fa-
7 cility of the Department of Veterans Affairs; or

8 “(B) the renovation, expansion, or other
9 construction at such a facility.

10 “(4) DURATION.—The administering Secretar-
11 ies shall conduct and implement the program and
12 the demonstration project as follows:

13 “(A) PROGRAM.—

14 “(i) IN GENERAL.—The program shall
15 begin on January 1, 2000, in the sites des-
16 ignated under paragraph (2)(A)(i) and,
17 subject to subsection (h)(1)(B)(iii)(II), for
18 a year beginning on or after January 1,
19 2003, the program may be conducted in
20 such additional sites designated under
21 paragraph (2)(A)(ii).

22 “(ii) If for a year beginning on or
23 after January 1, 2003, the program is con-
24 ducted only in the sites designated under
25 paragraph (2)(A)(i), Medicare health care

1 services may not be provided under the
2 program to a number of category-A Medi-
3 care-eligible veterans that exceeds the ag-
4 gregate number of such veterans covered
5 under the program as of December 31,
6 2002.

7 “(B) PROJECT.—The demonstration
8 project shall begin on January 1, 1999, and
9 end on December 31, 2001.

10 “(C) IMPLEMENTATION.—The administer-
11 ing Secretaries may implement the program
12 and demonstration project through the publica-
13 tion of regulations that take effect on an in-
14 terim basis, after notice and pending oppor-
15 tunity for public comment.

16 “(5) REPORTS.—

17 “(A) PROGRAM.—By not later than Sep-
18 tember 1, 1999, the administering Secretaries
19 shall submit a copy of the agreement entered
20 into under paragraph (1) with respect to the
21 program to Congress.

22 “(B) PROJECT.—By not later than Sep-
23 tember 1, 1998, the administering Secretaries
24 shall submit a copy of the agreement entered

1 into under paragraph (1) with respect to the
2 project to Congress.

3 “(6) REPORT ON MAINTENANCE OF LEVEL OF
4 HEALTH CARE SERVICES.—

5 “(A) IN GENERAL.—The Secretary of Vet-
6 erans Affairs may not implement the program
7 at a site designated under paragraph (2)(A) un-
8 less, by not later than 90 days before the date
9 of the implementation, the Secretary of Veter-
10 ans Affairs submits to Congress and to the
11 Comptroller General of the United States a re-
12 port that contains the information described in
13 subparagraph (B). The Secretary of Veterans
14 Affairs shall periodically update the report
15 under this paragraph as appropriate.

16 “(B) INFORMATION DESCRIBED.—For pur-
17 poses of subparagraph (A), the information de-
18 scribed in this subparagraph is a description of
19 the operation of the program at the site and of
20 the steps to be taken by the Secretary of Veter-
21 ans Affairs to prevent the reduction of the type
22 or amount of health care services furnished
23 under chapter 17 of title 38, United States
24 Code, to veterans who are entitled to benefits
25 under part A or enrolled under part B, or both,

1 within the geographic service area of the De-
2 partment of Veterans Affairs in which the site
3 is located by reason of the program or project.

4 “(c) CREDITING OF PAYMENTS.—A payment received
5 by the Secretary of Veterans Affairs under the program
6 or demonstration project shall be credited to the applicable
7 Department of Veterans Affairs medical care appropria-
8 tion (and within that appropriation). Any such payment
9 received during a fiscal year for services provided during
10 a prior fiscal year may be obligated by the Secretary of
11 Veterans Affairs during the fiscal year during which the
12 payment is received.

13 “(d) APPLICATION OF CERTAIN MEDICARE RE-
14 QUIREMENTS.—

15 “(1) AUTHORITY.—

16 “(A) IN GENERAL.—Except as provided
17 under subparagraph (B), the program and the
18 demonstration project shall meet all require-
19 ments of Medicare+Choice plans under part C
20 and regulations pertaining thereto, and other
21 requirements for receiving Medicare payments,
22 except that the prohibition of payments to Fed-
23 eral providers of services under sections 1814(c)
24 and 1835(d), and paragraphs (2) and (3) of
25 section 1862(a) shall not apply.

1 “(B) WAIVER.—Except as provided in
2 paragraph (2), the Secretary of Health and
3 Human Services is authorized to waive any re-
4 quirement described under subparagraph (A),
5 or approve equivalent or alternative ways of
6 meeting such a requirement, but only if such
7 waiver or approval—

8 “(i) reflects the unique status of the
9 Department of Veterans Affairs as an
10 agency of the Federal Government; and

11 “(ii) is necessary to carry out the pro-
12 gram or demonstration project.

13 “(2) BENEFICIARY PROTECTIONS AND OTHER
14 MATTERS.—The program and the demonstration
15 project shall comply with the requirements of part C
16 of this title that relate to beneficiary protections and
17 other matters, including such requirements relating
18 to the following areas, to the extent not inconsistent
19 with subsection (b)(1)(B)(iii):

20 “(A) Enrollment and disenrollment.

21 “(B) Nondiscrimination.

22 “(C) Information provided to beneficiaries.

23 “(D) Cost-sharing limitations.

24 “(E) Appeal and grievance procedures.

25 “(F) Provider participation.

1 “(G) Access to services.

2 “(H) Quality assurance and external re-
3 view.

4 “(I) Advance directives.

5 “(J) Other areas of beneficiary protections
6 that the administering Secretaries determine
7 are applicable to such program or project.

8 “(e) INSPECTOR GENERAL.—Nothing in the agree-
9 ment entered into under subsection (b) shall limit the In-
10 spector General of the Department of Health and Human
11 Services from investigating any matters regarding the ex-
12 penditure of funds under this title for the program and
13 demonstration project, including compliance with the pro-
14 visions of this title and all other relevant laws.

15 “(f) VOLUNTARY PARTICIPATION.—Participation of a
16 category A Medicare-eligible veteran in the program or
17 category C Medicare-eligible veteran in the demonstration
18 project shall be voluntary.

19 “(g) PAYMENTS BASED ON REGULAR MEDICARE
20 PAYMENT RATES.—

21 “(1) IN GENERAL.—Subject to the succeeding
22 provisions of this subsection, the Secretary of Health
23 and Human Services shall reimburse the Secretary
24 of Veterans Affairs for services provided under the
25 program or demonstration project at a rate equal to

1 95 percent of the amount paid to a
2 Medicare+Choice organization under part C of this
3 title with respect to such an enrollee. In cases in
4 which a payment amount may not otherwise be read-
5 ily computed, the Secretary of Health and Human
6 Services shall establish rules for computing equiva-
7 lent or comparable payment amounts.

8 “(2) EXCLUSION OF CERTAIN AMOUNTS.—In
9 computing the amount of payment under paragraph
10 (1), the following shall be excluded:

11 “(A) SPECIAL PAYMENTS.—Any amount
12 attributable to an adjustment under subpara-
13 graphs (B) and (F) of section 1886(d)(5) and
14 subsection (h) of such section.

15 “(B) PERCENTAGE OF CAPITAL PAY-
16 MENTS.—An amount determined by the admin-
17 istering Secretaries for amounts attributable to
18 payments for capital-related costs under sub-
19 section (g) of such section.

20 “(3) PERIODIC PAYMENTS FROM MEDICARE
21 TRUST FUNDS.—Payments under this subsection
22 shall be made—

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

1 “(B) in appropriate part, as determined by
2 the Secretary of Health and Human Services,
3 from the trust funds.

4 “(4) CAP ON REIMBURSEMENT AMOUNTS.—The
5 aggregate amount to be reimbursed under this sub-
6 section pursuant to the agreement entered into be-
7 tween the administering Secretaries under sub-
8 section (b) is as follows:

9 “(A) PROGRAM.—With respect to category
10 A Medicare-eligible veterans, such aggregate
11 amount shall not exceed—

12 “(i) for 2000, a total of \$50,000,000;

13 “(ii) for 2001, a total of \$75,000,000;

14 and

15 “(iii) subject to subparagraph (B), for
16 2002 and each succeeding year, a total of
17 \$100,000,000.

18 “(B) EXPANSION OF PROGRAM.—If for a
19 year beginning on or after January 1, 2003, the
20 program is conducted in sites designated under
21 subsection (b)(2)(A)(ii), the limitation under
22 subparagraph (A)(iii) shall not apply to the pro-
23 gram for such a year.

24 “(C) PROJECT.—With respect to category
25 C Medicare-eligible veterans, such aggregate

1 amount shall not exceed a total of \$50,000,000
2 for each of calendar years 1999 through 2001.

3 “(h) MAINTENANCE OF EFFORT.—

4 “(1) MONITORING EFFECT OF PROGRAM AND
5 DEMONSTRATION PROJECT ON COSTS TO MEDICARE
6 PROGRAM.—

7 “(A) IN GENERAL.—The administering
8 Secretaries, in consultation with the Comptrol-
9 ler General of the United States, shall closely
10 monitor the expenditures made under this title
11 for category A and C Medicare-eligible veterans
12 compared to the expenditures that would have
13 been made for such veterans if the program and
14 demonstration project had not been conducted.
15 The agreement entered into by the administer-
16 ing Secretaries under subsection (b) shall re-
17 quire the Department of Veterans Affairs to
18 maintain overall the level of effort for services
19 covered under this title to such categories of
20 veterans by reference to a base year as deter-
21 mined by the administering Secretaries.

22 “(B) DETERMINATION OF MEASURE OF
23 COSTS OF MEDICARE HEALTH CARE SERV-
24 ICES.—

1 “(i) IMPROVEMENT OF INFORMATION
2 MANAGEMENT SYSTEM.—Not later than
3 October 1, 2001, the Secretary of Veterans
4 Affairs shall improve its information man-
5 agement system such that, for a year be-
6 ginning on or after January 1, 2002, the
7 Secretary of Veterans Affairs is able to
8 identify costs incurred by the Department
9 of Veterans Affairs in providing Medicare
10 health care services to Medicare-eligible
11 veterans for purposes of meeting the re-
12 quirements with respect to maintenance of
13 effort under an agreement under sub-
14 section (b)(1)(A).

15 “(ii) IDENTIFICATION OF MEDICARE
16 HEALTH CARE SERVICES.—The Secretary
17 of Health and Human Services shall pro-
18 vide such assistance as is necessary for the
19 Secretary of Veterans Affairs to determine
20 which health care services furnished by the
21 Secretary of Veterans Affairs qualify as
22 Medicare health care services.

23 “(iii) CERTIFICATION BY HHS INSPEC-
24 TOR GENERAL.—

1 “(I) REQUEST FOR CERTIFI-
2 CATION.—The Secretary of Veterans
3 Affairs may request the Inspector
4 General of the Department of Health
5 and Human Services to make a cer-
6 tification to Congress that the Sec-
7 retary of Veterans Affairs has im-
8 proved its management system under
9 clause (i) such that the Secretary of
10 Veterans Affairs is able to identify the
11 costs described in such clause in a
12 reasonably reliable and accurate man-
13 ner.

14 “(II) REQUIREMENT FOR EXPAN-
15 SION OF PROGRAM.—The program
16 may be conducted in the additional
17 sites under paragraph (2)(A)(ii) and
18 cover such additional category A
19 Medicare eligible veterans in such ad-
20 ditional sites only if the Inspector
21 General of the Department of Health
22 and Human Services has made the
23 certification described in subclause
24 (I).

1 “(III) DEADLINE FOR CERTIFI-
2 CATION.—Not later than the date that
3 is the earlier of the date that is 60
4 days after the Secretary of Veterans
5 Affairs requests a certification under
6 subclause (I) or June 1, 2002, the In-
7 specter General of the Department of
8 Health and Human Services shall sub-
9 mit a report to Congress containing
10 the certification under subclause (I)
11 or the denial of such certification.

12 “(C) MAINTENANCE OF LEVEL OF EF-
13 FORT.—

14 “(i) REPORT BY SECRETARY OF VET-
15 ERANS AFFAIRS ON BASIS FOR CALCULA-
16 TION.—Not later than the date that is 60
17 days after the date on which the admin-
18 istering Secretaries enter into an agree-
19 ment under subsection (b)(1)(A), the Sec-
20 retary of Veterans Affairs shall submit a
21 report to Congress and the Comptroller
22 General of the United States explaining
23 the methodology used and basis for cal-
24 culating the level of effort of the Depart-

1 ment of Veterans Affairs under the pro-
2 gram and project.

3 “(ii) REPORT BY COMPTROLLER GEN-
4 ERAL.—Not later than the date that is 180
5 days after the date described in clause (i),
6 the Comptroller General of the United
7 States shall submit to Congress and the
8 administering Secretaries a report setting
9 forth the Comptroller General’s findings,
10 conclusion, and recommendations with re-
11 spect to the report submitted by the Sec-
12 retary of Veterans Affairs under clause (i).

13 “(iii) RESPONSE BY SECRETARY OF
14 VETERANS AFFAIRS.—The Secretary of
15 Veterans Affairs shall submit to Congress
16 not later than 60 days after the date de-
17 scribed in clause (ii) a report setting forth
18 such Secretary’s response to the report
19 submitted by the Comptroller General
20 under clause (ii).

21 “(D) ANNUAL REPORT BY THE COMPTROL-
22 LER GENERAL.—Not later than December 31 of
23 each year during which the program and dem-
24 onstration project is conducted, the Comptroller
25 General of the United States shall submit to

1 the administering Secretaries and to Congress a
2 report on the extent, if any, to which the costs
3 of the Secretary of Health and Human Services
4 under the Medicare program under this title in-
5 creased during the preceding fiscal year as a re-
6 sult of the program or demonstration project.

7 “(2) REQUIRED RESPONSE IN CASE OF IN-
8 CREASE IN COSTS.—

9 “(A) IN GENERAL.—If the administering
10 Secretaries find, based on paragraph (1), that
11 the expenditures under the Medicare program
12 under this title increased (or are expected to in-
13 crease) during a fiscal year because of the pro-
14 gram or demonstration project, the administer-
15 ing Secretaries shall take such steps as may be
16 needed—

17 “(i) to recoup for the Medicare pro-
18 gram the amount of such increase in ex-
19 penditures; and

20 “(ii) to prevent any such increase in
21 the future.

22 “(B) STEPS.—Such steps—

23 “(i) under subparagraph (A)(i) shall
24 include payment of the amount of such in-
25 creased expenditures by the Secretary of

1 Veterans Affairs from the current medical
2 care appropriation for the Department of
3 Veterans Affairs to the trust funds; and

4 “(ii) under subparagraph (A)(ii) shall
5 include lowering the amount of payment
6 under the program or project under sub-
7 section (g)(1), and may include, in the case
8 of the demonstration project, suspending
9 or terminating the project (in whole or in
10 part).

11 “(i) EVALUATION AND REPORTS.—

12 “(1) INDEPENDENT EVALUATION BY GAO.—

13 “(A) IN GENERAL.—The Comptroller Gen-
14 eral of the United States shall conduct an eval-
15 uation of the program and an evaluation of the
16 demonstration project, and shall submit annual
17 reports on the program and demonstration
18 project to the administering Secretaries and to
19 Congress.

20 “(B) FIRST REPORT.—The first report for
21 the program or demonstration project under
22 subparagraph (A) shall be submitted not later
23 than 12 months after the date on which the
24 Secretary of Veterans Affairs first provides

1 services under the program or project, respec-
2 tively.

3 “(C) FINAL REPORT ON DEMONSTRATION
4 PROJECT.—A final report shall be submitted
5 with respect to the demonstration project not
6 later than 3½ years after the date of the first
7 report on the project under subparagraph (B).

8 “(D) CONTENTS.—The evaluation and re-
9 ports under this paragraph for the program or
10 demonstration project shall include an assess-
11 ment, based on the agreement entered into
12 under subsection (b), of the following:

13 “(i) Any savings or costs to the Medi-
14 care program under this title resulting
15 from the program or project.

16 “(ii) The cost to the Department of
17 Veterans Affairs of providing care to cat-
18 egory A Medicare-eligible veterans under
19 the program or to category C Medicare-eli-
20 gible veterans under the demonstration
21 project, respectively.

22 “(iii) An analysis of how such pro-
23 gram or project affects the overall acces-
24 sibility of medical care through the De-
25 partment of Veterans Affairs, and a de-

1 description of the unintended effects (if any)
2 upon the patient enrollment system under
3 section 1705 of title 38, United States
4 Code.

5 “(iv) Compliance by the Department
6 of Veterans Affairs with the requirements
7 under this title.

8 “(v) The number of category A Medi-
9 care-eligible veterans or category C Medi-
10 care-eligible veterans, respectively, opting
11 to participate in the program or project in-
12 stead of receiving health benefits through
13 another health insurance plan (including
14 benefits under this title).

15 “(vi) A list of the health insurance
16 plans and programs that were the primary
17 payers for Medicare-eligible veterans dur-
18 ing the year prior to their participation in
19 the program or project, respectively, and
20 the distribution of their previous enroll-
21 ment in such plans and programs.

22 “(vii) Any impact of the program or
23 project, respectively, on private health care
24 providers and beneficiaries under this title

1 that are not enrolled in the program or
2 project.

3 “(viii) An assessment of the access to
4 care and quality of care for Medicare-eli-
5 ble veterans under the program or project,
6 respectively.

7 “(ix) An analysis of whether, and in
8 what manner, easier access to medical cen-
9 ters of the Department of Veterans Affairs
10 affects the number of category A Medicare-
11 eligible veterans or C Medicare-eligible vet-
12 erans, respectively, receiving Medicare
13 health care services.

14 “(x) Any impact of the program or
15 project, respectively, on the access to care
16 for category A Medicare-eligible veterans
17 or C Medicare-eligible veterans, respec-
18 tively, who did not enroll in the program or
19 project and for other individuals entitled to
20 benefits under this title.

21 “(xi) A description of the difficulties
22 (if any) experienced by the Department of
23 Veterans Affairs in managing the program
24 or project, respectively.

1 “(xii) Any additional elements speci-
2 fied in the agreement entered into under
3 subsection (b).

4 “(xiii) Any additional elements that
5 the Comptroller General of the United
6 States determines is appropriate to assess
7 regarding the program or project, respec-
8 tively.

9 “(2) REPORTS BY SECRETARIES ON PROGRAM
10 AND DEMONSTRATION PROJECT WITH RESPECT TO
11 MEDICARE-ELIGIBLE VETERANS.—

12 “(A) DEMONSTRATION PROJECT.—Not
13 later than 6 months after the date of the sub-
14 mission of the final report by the Comptroller
15 General of the United States on the demonstra-
16 tion project under paragraph (1)(C), the admin-
17 istering Secretaries shall submit to Congress a
18 report containing their recommendation as to—

19 “(i) whether there is a cost to the
20 health care program under this title in
21 conducting the demonstration project;

22 “(ii) whether to extend the dem-
23 onstration project or make the project per-
24 manent; and

1 “(iii) whether the terms and condi-
2 tions of the project should otherwise be
3 continued (or modified) with respect to
4 Medicare-eligible veterans.

5 “(B) PROGRAM.—Not later than 6 months
6 after the date of the submission of the report
7 by the Comptroller General of the United
8 States on the third year of the operation of the
9 program, the administering Secretaries shall
10 submit to Congress a report containing their
11 recommendation as to—

12 “(i) whether there is a cost to the
13 health care program under this title in
14 conducting the program under this section;

15 “(ii) whether to discontinue the pro-
16 gram with respect to category A Medicare-
17 eligible veterans; and

18 “(iii) whether the terms and condi-
19 tions of the program should otherwise be
20 continued (or modified) with respect to
21 Medicare-eligible veterans.”.

22 (b) REPEAL OF PLAN REQUIREMENT.—Subsection
23 (b) of section 4015 of the Balanced Budget Act of 1997
24 (relating to an implementation plan for Veterans sub-
25 vention) is repealed.

1 (c) EFFECTIVENESS CONTINGENT UPON ENACT-
2 MENT OF OFFSETTING OUTLAY REDUCTIONS IN VA PRO-
3 GRAMS THROUGH RESTRICTION OF USE OF TOBACCO
4 PRODUCTS TO QUALIFY FOR SERVICE-CONNECTED ENTI-
5 TLEMENT.—(1) No payment may be made from the Fed-
6 eral Hospital Insurance Trust Fund or from the Federal
7 Supplementary Medical Insurance Trust Fund for items
8 or services furnished under the program or demonstration
9 project established under section 1897 of the Social Secu-
10 rity Act, as added by subsection (a), before the date that
11 the Director of the Office of Management and Budget de-
12 termines that—

13 (A) legislation described in paragraph (2) has
14 been enacted; and

15 (B) the net amount of the reductions in expend-
16 itures achieved by reason of such legislation during
17 the 5-fiscal-year period beginning with fiscal year
18 1999, that is available to offset the net aggregate in-
19 crease in outlays (if any) under the Medicare pro-
20 gram under title XVIII of such Act, is not less than
21 the estimate of the amount of such net aggregate in-
22 crease during such period.

23 (2) For purposes of paragraph (1), the legislation de-
24 scribed in this paragraph is legislation that restricts enti-
25 tlement to service-connected compensation under title 38,

1 United States Code, for a disability that is the result of
2 a veteran's use of tobacco products.

3 (3) The estimate described in paragraph (1)(B) shall
4 be the estimate made by the Congressional Budget Office
5 and contained in the report of the Committee on Ways
6 and Means of the House of Representatives to accompany
7 H. R. ____ of the 105th Congress (the Veterans Medicare
8 Access Improvement Act of 1998), except to the extent
9 that the Director of the Office of Management and Budget
10 finds that the estimate is materially inaccurate.

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