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(Original Signature of Member)

114TH CONGRESS  
1ST SESSION

# H. R.

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To direct the Secretary of Veterans Affairs to develop a plan to consolidate the programs of the Department of Veterans Affairs to furnish hospital care and medical services to veterans at non-Department facilities, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

Mr. MILLER of Florida introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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# A BILL

To direct the Secretary of Veterans Affairs to develop a plan to consolidate the programs of the Department of Veterans Affairs to furnish hospital care and medical services to veterans at non-Department facilities, 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 “VA Budget and Choice  
5 Improvement Act”.

1 **SEC. 2. PLAN TO CONSOLIDATE PROGRAMS TO IMPROVE**  
2 **ACCESS TO CARE.**

3 (a) PLAN.—The Secretary of Veterans Affairs shall  
4 develop a plan to consolidate all non-Department provider  
5 programs by establishing a new, single program to be  
6 known as the “Veterans Choice Program” to furnish hos-  
7 pital care and medical services to veterans enrolled in the  
8 system of patient enrollment established under section  
9 1705(a) of title 38, United States Code, at non-Depart-  
10 ment facilities.

11 (b) ELEMENTS.—The plan developed under sub-  
12 section (a) to establish the Veterans Choice Program to  
13 furnish hospital care and medical services at non-Depart-  
14 ment facilities shall include, at a minimum, the following:

15 (1) A standardized method to furnish such care  
16 and services that incorporates the strengths of the  
17 non-Department provider programs into a single  
18 streamlined program that the Secretary administers  
19 uniformly in each Veterans Service Integrated Net-  
20 work and throughout the medical system of the Vet-  
21 erans Health Administration.

22 (2) An identification of the eligibility require-  
23 ments for any such care and services, including with  
24 respect to service-connected disabilities and non-  
25 service-connected disabilities.

1           (3) A description of the authorization process  
2           for such care or medical services, including with re-  
3           spect to identifying the roles of clinicians, sched-  
4           ulers, any third-party administrators, the Chief  
5           Business Office of the Department, and any other  
6           entity involved in the authorization process.

7           (4) The structuring of the billing and reim-  
8           bursement process, including the use of third-party  
9           medical claims adjudicators or technology that sup-  
10          ports automatic adjudication.

11          (5) A description of the reimbursement rate to  
12          be paid to health care providers under such pro-  
13          gram.

14          (6) An identification of how the Secretary will  
15          determine the eligibility requirements of health care  
16          providers at non-Department facilities to participate  
17          in such program, including how the Secretary plans  
18          to structure a non-Department care network to allow  
19          the maximum amount of flexibility in providing care  
20          and services under the program.

21          (7) An explanation of the processes to be used  
22          to ensure that the Secretary will fully comply with  
23          all requirements of chapter 39 of title 31, United  
24          States Code (commonly referred to as the “Prompt

1 Payment Act”), in paying for such care and services  
2 furnished at non-Department facilities.

3 (8) A description of how, to the greatest extent  
4 practicable, the Secretary plans to use infrastructure  
5 and networks of non-Department provider programs  
6 that exist as of the date of the plan to implement  
7 such program.

8 (9) A description of how—

9 (A) health care providers at non-Depart-  
10 ment facilities that furnish such care or services  
11 to veterans under such program will have access  
12 to, and transmit back to the Department, the  
13 medical records of such veterans; and

14 (B) the Department will receive from such  
15 non-Department providers such medical records  
16 and any other relevant information.

17 (10) A description of how the Secretary plans  
18 to ensure an efficient transition to such program for  
19 veterans who participate in the non-Department pro-  
20 vider programs, including a timeline, milestones, and  
21 estimated costs for implementation, outreach, and  
22 training.

23 (c) SUBMISSION.—Not later than November 1, 2015,  
24 the Secretary shall submit to the Committees on Veterans’

1 Affairs of the House of Representatives and the Senate  
2 a report containing—

3 (1) a description of each non-Department pro-  
4 vider program and the statutory authority for each  
5 such program;

6 (2) the plan under subsection (a);

7 (3) the estimated costs and budgetary require-  
8 ments to implement the plan and to furnish hospital  
9 care and medical services pursuant to such plan; and

10 (4) any recommendations for legislative pro-  
11 posals the Secretary determines necessary to imple-  
12 ment such plan.

13 (d) DEFINITIONS.—In this section:

14 (1) The term “non-Department facility” has  
15 the meaning given that term in section 1701 of title  
16 38, United States Code.

17 (2) The term “non-Department provider pro-  
18 grams” means each program administered by the  
19 Secretary of Veterans Affairs under which the Sec-  
20 retary enters into contracts or other agreements  
21 with health care providers at non-Department facili-  
22 ties to furnish hospital care and medical services to  
23 veterans, including pursuant to the following:

24 (A) Section 1703 of title 38, United States  
25 Code.

1 (B) The Veterans Choice Program estab-  
2 lished by section 101 of the Veterans Access,  
3 Choice, and Accountability Act of 2014 (Public  
4 Law 113–146; 38 U.S.C. 1701 note).

5 (C) The Patient Centered Community Care  
6 Program (known as “PC3”).

7 (D) The pilot program established by sec-  
8 tion 403 of the Veterans’ Mental Health and  
9 Other Care Improvements Act of 2008 (Public  
10 Law 110–387; 38 U.S.C. 1703 note) (known as  
11 “Project ARCH”).

12 (E) Contracts relating to dialysis.

13 (F) Agreements entered into by the Sec-  
14 retary with—

15 (i) the Secretary of Defense, the Di-  
16 rector of the Indian Health Service, or any  
17 the head of any other department or agen-  
18 cy of the Federal Government; or

19 (ii) any academic affiliate or other  
20 non-governmental entity.

21 (G) Programs relating to emergency care,  
22 including under sections 1725 and 1728 of title  
23 38, United States Code.

1 **SEC. 3. FUNDING ACCOUNT FOR NON-DEPARTMENT CARE.**

2 Each budget of the President submitted to Congress  
3 under section 1105 of title 31, United States Code, for  
4 fiscal year 2017 and each fiscal year thereafter shall in-  
5 clude an appropriations account for non-Department pro-  
6 vider programs (as defined in section 2(d)) to be com-  
7 prised of—

8 (1) discretionary medical services funding that  
9 is designated for hospital care and medical services  
10 furnished at non-Department facilities; and

11 (2) any funds transferred for such purpose  
12 from the Veterans Choice Fund established by sec-  
13 tion 802 of the Veterans Access, Choice, and Ac-  
14 countability Act of 2014 (Public Law 113–146; 128  
15 Stat. 1802).

16 **SEC. 4. TEMPORARY AUTHORIZATION OF USE OF VET-**  
17 **ERANS CHOICE FUNDS FOR CERTAIN PRO-**  
18 **GRAMS.**

19 (a) IN GENERAL.—Subsection (c) of section 802 of  
20 the Veterans Access, Choice, and Accountability Act of  
21 2014 (Public Law 113–146; 128 Stat. 1802) is amend-  
22 ed—

23 (1) in paragraph (1), by striking “Any  
24 amounts” and inserting “Except as provided by  
25 paragraph (3), any amounts”; and

1           (2) by adding at the end the following para-  
2 graph:

3           “(3) TEMPORARY AUTHORITY FOR OTHER  
4 USES.—

5           “(A) OTHER NON-DEPARTMENT CARE.—In  
6 addition to the use of amounts described in  
7 paragraph (1), of the amounts deposited in the  
8 Veterans Choice Fund, not more than  
9 \$3,348,500,000 may be used by the Secretary  
10 during the period described in subparagraph  
11 (C) for amounts obligated by the Secretary on  
12 or after May 1, 2015, to furnish hospital care  
13 and medical services to veterans pursuant to  
14 non-Department provider programs other than  
15 the program established by section 101.

16           “(B) HEPATITIS C.—Of the amount speci-  
17 fied in subparagraph (A), not more than  
18 \$500,000,000 may be used by the Secretary  
19 during the period described in subparagraph  
20 (C) for pharmaceutical expenses relating to the  
21 treatment of Hepatitis C.

22           “(C) PERIOD DESCRIBED.—The period de-  
23 scribed in this subparagraph is the period be-  
24 ginning on the date of the enactment of the VA



1 Budget and Choice Improvement Act and end-  
2 ing on October 1, 2015.

3 “(D) REPORTS.—Not later than 14 days  
4 after the date of the enactment of the VA  
5 Budget and Choice Improvement Act, and not  
6 less frequently than once every 14-day period  
7 thereafter during the period described in sub-  
8 paragraph (C), the Secretary shall submit to  
9 the appropriate congressional committees a re-  
10 port detailing—

11 “(i) the amounts used by the Sec-  
12 retary pursuant to subparagraphs (A) and  
13 (B); and

14 “(ii) an identification of such amounts  
15 listed by the non-Department provider pro-  
16 gram for which the amounts were used.

17 “(E) DEFINITIONS.—In this paragraph:

18 “(i) The term ‘appropriate congres-  
19 sional committees’ means—

20 “(I) the Committee on Veterans’  
21 Affairs and the Committee on Appro-  
22 priations of the House of Representa-  
23 tives; and

1                   “(II) the Committee on Veterans’  
2                   Affairs and the Committee on Appro-  
3                   priations of the Senate.

4                   “(ii) The term ‘non-Department pro-  
5                   vider program’ has the meaning given such  
6                   term in section 2(d) of the VA Budget and  
7                   Choice Improvement Act.”.

8           (b) CONFORMING AMENDMENT.—Subsection (d)(1)  
9 of such section is amended by inserting before the period  
10 at the end the following: “(or for hospital care and medical  
11 services pursuant to subsection (c)(3) of this section)”.

12 **SEC. 5. MODIFICATIONS OF VETERANS CHOICE PROGRAM.**

13           (a) INCREASED PERIOD OF FOLLOW-UP CARE.—  
14 Subsection (h) of section 101 of the Veterans Access,  
15 Choice, and Accountability Act of 2014 (Public Law 113–  
16 146; 38 U.S.C. 1701 note) is amended by striking “(but  
17 for a period not exceeding 60 days)”.

18           (b) EXPANSION OF ELIGIBILITY.—Such section is  
19 further amended—

20                   (1) by striking paragraph (1) of subsection (b)  
21                   and inserting the following new paragraph:

22                   “(1) the veteran is enrolled in the patient en-  
23                   rollment system of the Department of Veterans Af-  
24                   fairs established and operated under section 1705 of  
25                   title 38, United States Code, including any such vet-

1       eran who has not received hospital care or medical  
2       services from the Department and has contacted the  
3       Department seeking an initial appointment from the  
4       Department for the receipt of such care or services;  
5       and”;

6               (2) in subsection (g)(1), by striking “In the  
7       case” and all that follows through “, when” and in-  
8       sert “When”.

9       (c) EXPANSION OF PROVIDERS.—Such section is fur-  
10      ther amended—

11             (1) in subsection (a)(1)(B), by adding at the  
12      end the following new clause:

13                     “(v) Subject to subsection (d)(5), a  
14                     health care provider not otherwise covered  
15                     under any of clauses (i) through (iv).”;

16             (2) in subsection (d), by adding at the end the  
17      following new paragraph:

18                     “(5) AGREEMENTS WITH OTHER PROVIDERS.—  
19                     In accordance with the rates determined pursuant to  
20                     paragraph (2), the Secretary may enter into agree-  
21                     ments under paragraph (1) for furnishing care and  
22                     services to eligible veterans under this section with  
23                     an entity specified in subsection (a)(1)(B)(v) if the  
24                     entity meets criteria established by the Secretary for  
25                     purposes of this section.”.

1 (d) CLARIFICATION OF WAIT TIMES.—Subparagraph  
2 (A) of subsection (b)(2) of such section is amended to read  
3 as follows:

4 “(A) attempts, or has attempted, to sched-  
5 ule an appointment for the receipt of hospital  
6 care or medical services under chapter 17 of  
7 title 38, United States Code, but is unable to  
8 schedule an appointment within—

9 “(i) the wait-time goals of the Vet-  
10 erans Health Administration for the fur-  
11 nishing of such care or services; or

12 “(ii) with respect to such care or serv-  
13 ices that are clinically necessary, the period  
14 determined necessary for such care or serv-  
15 ices if such period is shorter than such  
16 wait-time goals;”.

17 (e) MODIFICATION OF DISTANCE REQUIREMENT.—  
18 Subparagraph (B) of subsection (b)(2) of such section is  
19 amended to read as follows:

20 “(B) resides more than 40 miles (as cal-  
21 culated based on distance traveled) from—

22 “(i) with respect to a veteran who is  
23 seeking primary care, a medical facility of  
24 the Department, including a community-  
25 based outpatient clinic, that is able to pro-

1           vide such primary care by a full-time pri-  
2           mary care physician; or

3           “(ii) with respect to a veteran not cov-  
4           ered under clause (i), the medical facility  
5           of the Department, including a community-  
6           based outpatient clinic, that is closest to  
7           the residence of the veteran;”.

8 **SEC. 6. LIMITATION ON DIALYSIS PILOT PROGRAM.**

9           (a) **LIMITATION.**—None of the funds authorized to  
10          be appropriated or otherwise made available to the Sec-  
11          retary of Veterans Affairs may be used to expand the di-  
12          alysis pilot program or to create any new dialysis capa-  
13          bility provided by the Department in a facility that is not  
14          an initial facility under the dialysis pilot program until—

15                 (1) an independent analysis of the dialysis pilot  
16                 program is conducted for each such initial facility;

17                 (2) the Secretary submits to the appropriate  
18                 congressional committees the report under sub-  
19                 section (b); and

20                 (3) a period of 180 days has elapsed following  
21                 the date on which the Secretary submits such report.

22          (b) **REPORT.**—The Secretary shall submit to the ap-  
23          propriate congressional committees a report containing  
24          the following:

1           (1) The independent analysis described in sub-  
2           section (a)(1).

3           (2) A five-year dialysis investment plan explain-  
4           ing all of the options of the Secretary for delivering  
5           dialysis care to veterans, including how and where  
6           such care will be delivered.

7           (c) DEFINITIONS.—In this section:

8           (1) The term “appropriate congressional com-  
9           mittees” means—

10           (A) the Committee on Veterans’ Affairs  
11           and the Committee on Appropriations of the  
12           House of Representatives; and

13           (B) the Committee on Veterans’ Affairs  
14           and the Committee on Appropriations of the  
15           Senate.

16           (2) The term “dialysis pilot program” means  
17           the pilot demonstration program approved by the  
18           Under Secretary of Veterans Affairs for Health in  
19           August 2010 and by the Secretary of Veterans Af-  
20           fairs in September 2010 to provide dialysis care to  
21           patients at certain outpatient facilities operated by  
22           the Department of Veterans Affairs.

23           (3) The term “initial facility” means one of the  
24           four outpatient facilities identified by the Secretary

1 to participate in the dialysis pilot program prior to  
2 the date of the enactment of this Act.

3 **SEC. 7. AMENDMENTS TO INTERNAL REVENUE CODE WITH**  
4 **RESPECT TO HEALTH COVERAGE OF VET-**  
5 **ERANS.**

6 (a) EXEMPTION IN DETERMINATION OF EMPLOYER  
7 HEALTH INSURANCE MANDATE.—

8 (1) IN GENERAL.—Section 4980H(c)(2) of the  
9 Internal Revenue Code of 1986 is amended by add-  
10 ing at the end the following:

11 “(F) EXEMPTION FOR HEALTH COVERAGE  
12 UNDER TRICARE OR THE VETERANS ADMINIS-  
13 TRATION.—Solely for purposes of determining  
14 whether an employer is an applicable large em-  
15 ployer under this paragraph for any month, an  
16 individual shall not be taken into account as an  
17 employee for such month if such individual has  
18 medical coverage for such month under—

19 “(i) chapter 55 of title 10, United  
20 States Code, including coverage under the  
21 TRICARE program, or

22 “(ii) under a health care program  
23 under chapter 17 or 18 of title 38, United  
24 States Code, as determined by the Sec-  
25 retary of Veterans Affairs, in coordination

1 with the Secretary of Health and Human  
2 Services and the Secretary.”.

3 (2) EFFECTIVE DATE.—The amendment made  
4 by this subsection shall apply to months beginning  
5 after December 31, 2013.

6 (b) ELIGIBILITY FOR HEALTH SAVINGS ACCOUNT  
7 NOT AFFECTED BY RECEIPT OF MEDICAL CARE FOR  
8 SERVICE-CONNECTED DISABILITY.—

9 (1) IN GENERAL.—Section 223(c)(1) of the In-  
10 ternal Revenue Code of 1986 is amended by adding  
11 at the end the following new subparagraph:

12 “(C) SPECIAL RULE FOR INDIVIDUALS ELI-  
13 GIBLE FOR CERTAIN VETERANS BENEFITS.—An  
14 individual shall not fail to be treated as an eli-  
15 gible individual for any period merely because  
16 the individual receives hospital care or medical  
17 services under any law administered by the Sec-  
18 retary of Veterans Affairs for a service-con-  
19 nected disability (within the meaning of section  
20 101(16) of title 38, United States Code).”.

21 (2) EFFECTIVE DATE.—The amendment made  
22 by this subsection shall apply to months beginning  
23 after the date of the enactment of this Act.



1 **SEC. 8. EMERGENCY DESIGNATIONS.**

2 (a) IN GENERAL.—This Act, except for section 7, is  
3 designated as an emergency requirement pursuant to sec-  
4 tion 4(g) of the Statutory Pay-As-You-Go Act of 2010 (2  
5 U.S.C. 933(g)).

6 (b) DESIGNATION IN SENATE.—In the Senate, this  
7 Act, except for section 7, is designated as an emergency  
8 requirement pursuant to section 403(a) of S. Con. Res.  
9 13 (111th Congress), the concurrent resolution on the  
10 budget for fiscal year 2010.