

Committee Print

(Reflecting the actions of the Subcommittee on Health on
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114TH CONGRESS
2^D SESSION

H. R. 3989

To amend title 38, United States Code, to improve the process for determining the eligibility of caregivers of veterans to certain benefits administered by the Secretary of Veterans Affairs.

IN THE HOUSE OF REPRESENTATIVES

A BILL

To amend title 38, United States Code, to improve the process for determining the eligibility of caregivers of veterans to certain benefits administered by the Secretary of Veterans Affairs.

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 “Support Our Military
5 Caregivers Act”.

1 **SEC. 2. EXTERNAL CLINICAL REVIEW OF DENIED APPLICA-**
2 **TIONS BY CAREGIVERS OF VETERANS.**

3 (a) IN GENERAL.—Section 1720G of title 38, United
4 States Code, is amended—

5 (1) by redesignating subsections (d) and (e) as
6 subsections (e) and (f), respectively; and

7 (2) by inserting after subsection (c) the fol-
8 lowing new subsection (d):

9 “(d) EXTERNAL CLINICAL REVIEW OF APPLICA-
10 TIONS.—(1) Using amounts otherwise appropriated to
11 carry out this section, an individual may elect to have an
12 independent contractor described in paragraph (2) per-
13 form an external clinical review of any of the following:

14 “(A) The denial by the Secretary of an applica-
15 tion by an individual to be a caregiver or family
16 caregiver eligible for the program of comprehensive
17 assistance administered by the Secretary pursuant to
18 this section.

19 “(B) With respect to such an application that
20 the Secretary has granted, a determination by the
21 Secretary of the level or amount of personal care
22 services that a veteran requires.

23 “(C) A request by a caregiver or family care-
24 giver for a reconsideration of the level or amount of
25 personal care services that a veteran requires based
26 on changes to the health or abilities of the veteran

1 occurring since the Secretary granted such an appli-
2 cation.

3 “(D) The revocation by the Secretary of assist-
4 ance administered by the Secretary pursuant to this
5 section.

6 “(2) An independent contractor described in this
7 paragraph is an independent contractor that—

8 “(A) is awarded a contract by the Secretary to
9 carry out this section pursuant to full and open com-
10 petition under the Federal Acquisition Regulation;

11 “(B) has no direct or indirect financial relation-
12 ship with any non-Department provider of services
13 to caregivers and family caregivers pursuant to this
14 title;

15 “(C) has not otherwise conducted an external
16 clinical review of benefits administered by the Sec-
17 retary pursuant to this title other than this section;

18 “(D) has sufficient training and expertise in
19 medical science and other appropriate health, edu-
20 cational, and vocational training and legal matters
21 to perform the reviews described in paragraph (1);
22 and

23 “(E) employs a panel of physicians or other ap-
24 propriate health care professionals who do not pro-

1 vide health care to the individual who makes an elec-
2 tion under paragraph (1).

3 “(3) Each external clinical review conducted pursu-
4 ant to paragraph (1) shall—

5 “(A) be based on applicable information in-
6 cluded in the application for assistance described in
7 such paragraph, including clinical expertise, medical,
8 technical, and scientific evidence;

9 “(B) include an opportunity for both the indi-
10 vidual who elects for such review and, to the extent
11 possible, the veteran for whom care is being provided
12 to offer opinions and supporting data as to the level
13 of care required; and

14 “(C) include a review of the initial clinical re-
15 view of such veteran and any other review made by
16 the Secretary.

17 “(4) In carrying out the external clinical reviews pur-
18 suant to paragraph (1), the independent contractor shall,
19 as determined appropriate by the Secretary—

20 “(A) collect and maintain information required;
21 and

22 “(B) share such information with the Secretary.

23 “(5) The Secretary shall take into account, but is not
24 bound by, any determination made by the independent
25 contractor pursuant to paragraph (1) in determining the

1 final decision with respect to the application for assist-
2 ance. The Secretary may make a final decision that is con-
3 trary to such a determination if the Secretary includes
4 clinically supported documentation with the decision.

5 “(6) The Secretary shall ensure that each external
6 clinical review conducted by the independent contractor
7 pursuant to paragraph (1) is completed and the Depart-
8 ment is notified in writing of the results of the review by
9 not later than 120 days after the date on which the indi-
10 vidual makes the election under such paragraph. Not later
11 than 30 days after the delivery of the determination rec-
12 ommended by the independent contractors, the Secretary
13 shall ensure that the veteran and the individual making
14 the election under such paragraph is notified in writing
15 of the final decision of the Secretary. In accordance with
16 paragraph (5), such notification shall include an expla-
17 nation of the recommended decision, a discussion of the
18 facts and applicable regulations, and an explanation of the
19 clinical rationale for the final decision.

20 “(7) The Secretary shall notify individuals who sub-
21 mit an application to be a caregiver or family caregiver
22 eligible for the program of comprehensive assistance ad-
23 ministered by the Secretary pursuant to this section of the
24 ability of the individual to make an election under para-
25 graph (1).

1 “(8) Nothing in this subsection may be construed to
2 affect claims made by veterans for disability compensation
3 under chapter 11 of this title.”.

4 (b) APPLICATION.—The amendments made by sub-
5 section (a) shall apply with respect to elections under sub-
6 section (d) of section 1720G of title 38, United States
7 Code, as added by subsection (a)(2), that are for applica-
8 tions or revocations for assistance for caregivers and fam-
9 ily caregivers pursuant to such section for which the Sec-
10 retary of Veterans Affairs has not made a final decision
11 as of the date of the enactment of this Act.

12 **SEC. 3. PROCESS TO DETERMINE ELIGIBILITY FOR CARE-**
13 **GIVERS OF VETERANS.**

14 (a) DIRECTIVES.—The Secretary of Veterans Affairs
15 shall issue directives regarding the policies, procedures,
16 and operational requirements for the Family Caregiver
17 Program, including with respect to determining the eligi-
18 bility of an individual to participate in the Family Care-
19 giver Program.

20 (b) GAO REPORT.—The Comptroller General of the
21 United States shall submit to the Committees on Vet-
22 erans’ Affairs of the House of Representatives and the
23 Senate a report on the processes of the Secretary of Vet-
24 erans Affairs with respect to—

1 (1) determining the eligibility of an individual
2 to participate in the Family Caregiver Program;

3 (2) adjudicating appeals to such determina-
4 tions; and

5 (3) the periodic eligibility reevaluation of an in-
6 dividual participating in such program and the com-
7 munication of any changes as a result of such re-
8 evaluations to the veteran and caregiver.

9 (c) FAMILY CAREGIVER PROGRAM DEFINED.—In
10 this section, the term “Family Caregiver Program” either
11 the program of comprehensive assistance for family care-
12 givers or the program of general caregiver support services
13 established by section 1720G of title 38, United States
14 Code.