

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 3989**

**OFFERED BY Mr. Bilirakis of Florida**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Support Our Military  
3 Caregivers Act”.

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

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

8 (1) by redesignating subsections (d) and (e) as  
9 subsections (e) and (f), respectively; and

10 (2) by inserting after subsection (c) the fol-  
11 lowing new subsection (d):

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

17 “(A) The denial by the Secretary of an applica-  
18 tion by an individual to be a caregiver or family

1 caregiver eligible for the program of comprehensive  
2 assistance administered by the Secretary pursuant to  
3 this section.

4 “(B) With respect to such an application that  
5 the Secretary has granted, a determination by the  
6 Secretary of the level or amount of personal care  
7 services that a veteran requires.

8 “(C) A request by a caregiver or family care-  
9 giver for a reconsideration of the level or amount of  
10 personal care services that a veteran requires based  
11 on changes to the health or abilities of the veteran  
12 occurring since the Secretary granted such an appli-  
13 cation.

14 “(D) The revocation by the Secretary of assist-  
15 ance administered by the Secretary pursuant to this  
16 section.

17 “(2) An independent contractor described in this  
18 paragraph is an independent contractor that—

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

22 “(B) has no direct or indirect financial relation-  
23 ship with any non-Department provider of services  
24 to caregivers and family caregivers pursuant to this  
25 title;

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

4           “(D) has sufficient training and expertise in  
5           medical science and other appropriate health, edu-  
6           cational, and vocational training and legal matters  
7           to perform the reviews described in paragraph (1);  
8           and

9           “(E) employs a panel of physicians or other ap-  
10          propriate health care professionals who do not pro-  
11          vide health care to the individual who makes an elec-  
12          tion under paragraph (1).

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

15                 “(A) be based on applicable information in-  
16                 cluded in the application for assistance described in  
17                 such paragraph, including clinical expertise, medical,  
18                 technical, and scientific evidence;

19                 “(B) include an opportunity for both the indi-  
20                 vidual who elects for such review and, to the extent  
21                 possible, the veteran for whom care is being provided  
22                 to offer opinions and supporting data as to the level  
23                 of care required; and

1           “(C) include a review of the initial clinical re-  
2           view of such veteran and any other review made by  
3           the Secretary.

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

7           “(A) collect and maintain information required;  
8           and

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

10          “(5) The Secretary shall take into account, but is not  
11          bound by, any determination made by the independent  
12          contractor pursuant to paragraph (1) in determining the  
13          final decision with respect to the application for assist-  
14          ance. The Secretary may make a final decision that is con-  
15          trary to such a determination if the Secretary includes  
16          clinically supported documentation with the decision.

17          “(6) The Secretary shall ensure that each external  
18          clinical review conducted by the independent contractor  
19          pursuant to paragraph (1) is completed and the Depart-  
20          ment is notified in writing of the results of the review by  
21          not later than 120 days after the date on which the indi-  
22          vidual makes the election under such paragraph. Not later  
23          than 30 days after the delivery of the determination rec-  
24          ommended by the independent contractors, the Secretary  
25          shall ensure that the veteran and the individual making

1 the election under such paragraph is notified in writing  
2 of the final decision of the Secretary. In accordance with  
3 paragraph (5), such notification shall include an expla-  
4 nation of the recommended decision, a discussion of the  
5 facts and applicable regulations, and an explanation of the  
6 clinical rationale for the final decision.

7 “(7) The Secretary shall notify individuals who sub-  
8 mit an application to be a caregiver or family caregiver  
9 eligible for the program of comprehensive assistance ad-  
10 ministered by the Secretary pursuant to this section of the  
11 ability of the individual to make an election under para-  
12 graph (1).

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

16 (b) APPLICATION.—The amendments made by sub-  
17 section (a) shall apply with respect to elections under sub-  
18 section (d) of section 1720G of title 38, United States  
19 Code, as added by subsection (a)(2), that are for applica-  
20 tions or revocations for assistance for caregivers and fam-  
21 ily caregivers pursuant to such section for which the Sec-  
22 retary of Veterans Affairs has not made a final decision  
23 as of the date of the enactment of this Act.

1 **SEC. 3. PROCESS TO DETERMINE ELIGIBILITY FOR CARE-**  
2 **GIVERS OF VETERANS.**

3 (a) DIRECTIVES.—The Secretary of Veterans Affairs  
4 shall issue directives regarding the policies, procedures,  
5 and operational requirements for the Family Caregiver  
6 Program, including with respect to determining the eligi-  
7 bility of an individual to participate in the Family Care-  
8 giver Program.

9 (b) GAO REPORT.—The Comptroller General of the  
10 United States shall submit to the Committees on Vet-  
11 erans' Affairs of the House of Representatives and the  
12 Senate a report on the processes of the Secretary of Vet-  
13 erans Affairs with respect to—

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

16 (2) adjudicating appeals to such determina-  
17 tions; and

18 (3) the periodic eligibility reevaluation of an in-  
19 dividual participating in such program and the com-  
20 munication of any changes as a result of such re-  
21 evaluations to the veteran and caregiver.

22 (c) FAMILY CAREGIVER PROGRAM DEFINED.—In  
23 this section, the term “Family Caregiver Program” either  
24 the program of comprehensive assistance for family care-  
25 givers or the program of general caregiver support services

1 established by section 1720G of title 38, United States

2 Code.

