

.....
(Original Signature of Member)

118TH CONGRESS
2D SESSION

H. R. _____

To amend title 38, United States Code, to improve matters relating to medical examinations for veterans disability compensation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. TAKANO introduced the following bill; which was referred to the Committee on _____

A BILL

To amend title 38, United States Code, to improve matters relating to medical examinations for veterans disability compensation, 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 “Medical Disability Ex-
5 amination Improvement Act of 2024”.

1 **SEC. 2. MODIFICATION OF ELIGIBILITY REQUIREMENTS**
2 **FOR MEDICAL NEXUS EXAMINATIONS FOR**
3 **TOXIC EXPOSURE RISK ACTIVITIES.**

4 Section 1168 of title 38, United States Code, is
5 amended—

6 (1) by striking “veteran” each place it occurs
7 and inserting “covered veteran”;

8 (2) in subsection (a)(1), in the matter before
9 subparagraph (A)—

10 (A) by striking “such evidence” and insert-
11 ing “the evidence of record before the Sec-
12 retary”; and

13 (B) by striking “with evidence of a dis-
14 ability and evidence of participation in a toxic
15 exposure risk activity during active military,
16 naval, air, or space service”; and

17 (3) by amending subsection (c) to read as fol-
18 lows:

19 “(c) DEFINITIONS.—In this section:

20 “(1) The term ‘covered veteran’ means—

21 “(A) a covered veteran as such term is de-
22 fined in section 1119(c) of this title;

23 “(B) in the case of a veteran not described
24 in subparagraph (A) who submits a claim as
25 described in subsection (a), such a veteran who

1 expresses in the claim that the claim is associ-
2 ated with a toxic exposure risk activity; and

3 “(C) such other categories of veterans as
4 the Secretary considers appropriate.

5 “(2) The term ‘toxic exposure risk activity’ has
6 the meaning given that term in section 1710(e)(4)
7 of this title.”.

8 **SEC. 3. SPECIFICATION OF ACCOUNTS FOR CERTAIN EX-**
9 **PENSES RELATING TO MEDICAL EXAMINA-**
10 **TIONS FOR VETERANS DISABILITY COM-**
11 **PENSATION CLAIMS UNDER LAWS ADMINIS-**
12 **TERED BY SECRETARY OF VETERANS AF-**
13 **FAIRS.**

14 Section 5103A(d) of title 38, United States Code, is
15 amended by adding at the end the following new para-
16 graph:

17 “(3) Expenses of carrying out a medical examination
18 or obtaining a medical opinion under paragraph (1), in-
19 cluding payment for travel and incidental expenses under
20 the terms and conditions set forth by section 111 of this
21 title for the examination or medical opinion, shall be reim-
22 bursed to the accounts available for the general operating
23 expenses of the Veterans Benefits Administration and in-
24 formation technology systems from amounts available to

1 the Secretary for payment of compensation and pen-
2 sions.”.

3 **SEC. 4. STUDY ON IMPROVEMENTS TO DEPARTMENT OF**
4 **VETERANS AFFAIRS COVERED MEDICAL DIS-**
5 **ABILITY EXAMINATIONS IN RURAL AREAS.**

6 (a) **STUDY REQUIRED.**—Not later than one year
7 after the date of the enactment of this Act, the Secretary
8 of Veterans Affairs shall complete a study on access by
9 veterans who reside in rural areas to covered medical dis-
10 ability examinations.

11 (b) **ELEMENTS.**—

12 (1) **IN GENERAL.**—The study conducted under
13 subsection (a) shall include the following:

14 (A) A comparison of the average number
15 of days to complete covered medical disability
16 examinations, disaggregated by type of exam-
17 ination, for veterans who reside in rural areas
18 compared to an average time for veterans who
19 reside in other areas to complete a covered
20 medical disability examination, by either con-
21 tractors or employees of the Department.

22 (B) A root cause analysis of differences
23 identified pursuant to subparagraph (A).

24 (C) The plan of the Secretary for the fol-
25 lowing year to improve access described in sub-

1 section (a), which shall include a plan for the
2 pursuit of a commercial or industry-standard
3 solution or technology that could enable house-
4 bound veterans or veterans who live in rural
5 areas to receive examinations without traveling
6 long distances.

7 (2) NUMBER OF DAYS TO COMPLETE DE-
8 FINED.—For purposes of paragraph (1)(A), the
9 term “number of days to complete” means the num-
10 ber of days in the period—

11 (A) beginning on the date on which a con-
12 tractor or employee of the Department received
13 a request from the Secretary to conduct a cov-
14 ered medical disability examination; and

15 (B) ending on the date on which the exam-
16 ination was completed.

17 (c) REPORT ON STUDY.—Not later than one year
18 after the date of the enactment of this Act, the Secretary
19 shall submit to the Committee on Veterans’ Affairs of the
20 Senate and the Committee on Veterans’ Affairs of the
21 House of Representatives a report on the findings of the
22 Secretary with respect to the study completed under sub-
23 section (a).

24 (d) ANNUAL REPORT ON PLANS.—Not later than two
25 years after the date of the enactment of this Act and not

1 less frequently than once each year thereafter, the Sec-
2 retary shall submit to the Committee on Veterans' Affairs
3 of the Senate and the Committee on Veterans' Affairs of
4 the House of Representatives a report evaluating the con-
5 duct of the plans of the Secretary to improve access de-
6 scribed in subsection (a) and a new or revised plan for
7 such improvement in the following year.

8 (e) DEFINITION OF COVERED MEDICAL DISABILITY
9 EXAMINATION.—In this section, the term “covered med-
10 ical disability examination” means a medical nexus exam-
11 ination or medical opinion for the purposes of adjudicating
12 a benefit under chapter 11 or 15 of title 38, United States
13 Code, regardless of whether conducted by an employee or
14 a contractor of the Department.

15 **SEC. 5. IMPROVEMENTS TO TRAINING FOR PROCESSING**
16 **MEDICAL DISABILITY EXAMINATIONS.**

17 (a) IN GENERAL.—Not later than 180 days after the
18 date of the enactment of this Act, the Secretary of Vet-
19 erans Affairs shall require additional training for employ-
20 ees of the Department of Veterans Affairs who order or
21 review covered medical disability examinations.

22 (b) TRAINING REQUIREMENTS.—The training re-
23 quired under subsection (a) shall include the following:

24 (1) Instruction on how to assess whether a cov-
25 ered medical disability examination is adequate for

1 purposes of adjudicating the particular claim for a
2 benefit under chapter 11 or 15 of title 38, United
3 States Code, for which the examination was ordered
4 by the Department.

5 (2) Instruction on how to assess whether a cov-
6 ered medical disability examination is necessary for
7 purposes of adjudicating the particular claim for a
8 benefit under chapter 11 or 15 of title 38, United
9 States Code, for which the examination was ordered
10 by the Department.

11 (3) Review of relevant statutes, judicial deci-
12 sions, regulations, and policies of the Department
13 regarding covered medical disability examinations,
14 including, at a minimum—

15 (A) the duty to assist;

16 (B) the relevance of causation compared to
17 other evidentiary standards in covered medical
18 disability examinations;

19 (C) the required elements of a covered
20 medical disability examination, with an empha-
21 sis on the requirement for reasoned analysis to
22 support medical opinions; and

23 (D) the relevance of a lack of a statutory
24 or regulatory presumption of service-connection
25 in covered medical disability examinations.

1 (4) Input from impacted employees of the De-
2 partment, including duly appointed labor representa-
3 tives of Department employees.

4 (c) FREQUENCY.—The Secretary shall ensure that
5 each employee of the Department who orders or uses a
6 covered medical disability examination to evaluate a claim
7 for a benefit under chapter 11 or 15 of title 38, United
8 States Code, completes training that incorporates the re-
9 quirements of subsection (b) not less frequently than once
10 each year.

11 (d) MODIFICATION OF REPORTS.—

12 (1) BOARD OF VETERANS' APPEALS.—Section
13 7101(d)(2) of title 38, United States Code, is
14 amended—

15 (A) in subparagraph (F), by striking “;
16 and” and inserting a semicolon;

17 (B) in subparagraph (G), by striking the
18 period at the end and inserting “; and”; and

19 (C) by adding at the end the following new
20 subparagraph:

21 “(H) a summary of recurring issues that the
22 Chairman believes could be resolved by better train-
23 ing for employees of the Department, increased over-
24 sight, or clarification from either the Department or
25 Congress.”.

1 representative sample of all covered medical disability exami-
2 nations completed during the previous calendar month.

3 (b) FURTHER SAMPLE REQUIREMENTS.—Under
4 each review required by subsection (a), the Secretary shall
5 ensure the review includes—

6 (1) a statistically significant sample of covered
7 medical disability examinations completed by em-
8 ployees of the Department of Veterans Affairs; and

9 (2) a statistically significant sample of covered
10 medical disability examinations completed by each
11 contractor that provides such examinations for the
12 Department.

13 (c) ANALYSIS.—Under each review required by sub-
14 section (a), the Secretary shall analyze—

15 (1) the sample specified in subsection (b)(1)
16 and identify the percentage of examinations that
17 were adequate for purposes of adjudicating the par-
18 ticular claim for a benefit under chapter 11 or 15
19 of title 38, United States Code, for which the exam-
20 ination was ordered by the Department;

21 (2) the sample specified in subsection (b)(2)
22 and identify the percentage of examinations that
23 were adequate for purposes of adjudicating the par-
24 ticular claim for a benefit under chapter 11 or 15

1 of title 38, United States Code, for which the exam-
2 ination was ordered by the Department; and

3 (3) the overall sample specified in subsection
4 (a) and identify the percentage of examinations that
5 were necessary for purposes of adjudicating the par-
6 ticular claim for a benefit under chapter 11 or 15
7 of title 38, United States Code, for which the exam-
8 ination was ordered by the Department.

9 (d) PRIORITY PROCESSING.—

10 (1) IN GENERAL.—Except as provided for in
11 paragraph (2), if during a review under subsection
12 (a) the Secretary finds any covered medical dis-
13 ability examination to be not adequate or not nec-
14 essary for adjudicating a claim, the Secretary shall
15 ensure the claimant examined by that examination—

16 (A) receives another examination, if nec-
17 essary, on a priority basis; and

18 (B) receives priority processing for the en-
19 tirety of impacted claim.

20 (2) EXCEPTION.—The Secretary is not required
21 to furnish an additional examination under para-
22 graph (1) if the Secretary determines such an exam-
23 ination to be unnecessary for purposes of adjudi-
24 cating the claim.

1 (e) COVERED MEDICAL DISABILITY EXAMINATION
2 DEFINED.—In this section, the term “covered medical dis-
3 ability examination” means a medical nexus examination
4 or medical opinion for the purposes of adjudicating a ben-
5 efit under chapter 11 or 15 of title 38, United States
6 Code, regardless of whether conducted by an employee or
7 a contractor of the Department.

8 **SEC. 7. MECHANISM FOR CONTRACTORS CONDUCTING DIS-**
9 **ABILITY EXAMINATIONS UNDER CERTAIN DE-**
10 **PARTMENT OF VETERANS AFFAIRS PILOT**
11 **PROGRAM TO TRANSMIT MEDICAL EVIDENCE**
12 **INTRODUCED BY CLAIMANTS DURING EXAMI-**
13 **NATIONS.**

14 Section 504 of the Veterans’ Benefits Improvements
15 Act of 1996 (Public Law 104–275; 38 U.S.C. 5101 note)
16 is amended—

17 (1) by redesignating subsections (d) and (e) as
18 subsections (e) and (f), respectively; and

19 (2) by inserting after subsection (c) the fol-
20 lowing new subsection (d):

21 “(d) MECHANISM FOR TRANSMITTAL OF EVIDENCE
22 INTRODUCED BY APPLICANTS DURING EXAMINATIONS.—
23 The Secretary shall establish a mechanism whereby a
24 health care professional can transmit to the Secretary, evi-
25 dence introduced by the applicant during a medical exam-

1 ination or in conjunction with a medical opinion that the
2 Secretary determines necessary for the purposes of adjudi-
3 cating a benefit under chapter 11 or 15 of title 38, United
4 States Code.”.