AN ACT

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, 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,
SECTION 1. SHORT TITLE.

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

SEC. 2. EXTERNAL CLINICAL REVIEW OF DENIED APPLICATIONS BY CAREGIVERS OF VETERANS.

(a) In General.—Section 1720G of title 38, United States Code, is amended—

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

(2) by inserting after subsection (e) the following new subsection (d):

“(d) EXTERNAL CLINICAL REVIEW OF APPLICATIONS.—(1) Using amounts otherwise appropriated to carry out this section, an individual may elect to have an independent contractor described in paragraph (2) perform an external clinical review of any of the following:

“(A) The denial by the Secretary of an application by an individual to be a caregiver or family caregiver eligible for the program of comprehensive assistance administered by the Secretary pursuant to this section.

“(B) With respect to such an application that the Secretary has granted, a determination by the Secretary of the level or amount of personal care services that a veteran requires.
“(C) A request by a caregiver or family caregiver for a reconsideration of the level or amount of personal care services that a veteran requires based on changes to the health or abilities of the veteran occurring since the Secretary granted such an application.

“(D) The revocation by the Secretary of assistance administered by the Secretary pursuant to this section.

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

“(A) is awarded a contract by the Secretary to carry out this section pursuant to full and open competition under the Federal Acquisition Regulation;

“(B) has no direct or indirect financial relationship with any non-Department provider of services to caregivers and family caregivers pursuant to this title;

“(C) has not otherwise conducted an external clinical review of benefits administered by the Secretary pursuant to this title other than this section;

“(D) has sufficient training and expertise in medical science and other appropriate health, educational, and vocational training and legal matters
to perform the reviews described in paragraph (1); and

“(E) employs a panel of physicians or other appropriate health care professionals who do not provide health care to the individual who makes an election under paragraph (1).

“(3) Each external clinical review conducted pursuant to paragraph (1) shall—

“(A) be based on applicable information included in the application for assistance described in such paragraph, including clinical expertise, medical, technical, and scientific evidence;

“(B) include an opportunity for both the individual who elects for such review and, to the extent possible, the veteran for whom care is being provided to offer opinions and supporting data as to the level of care required; and

“(C) include a review of the initial clinical review of such veteran and any other review made by the Secretary.

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

“(A) collect and maintain information required; and
“(B) share such information with the Secretary.

“(5) The Secretary shall take into account, but is not bound by, any determination made by the independent contractor pursuant to paragraph (1) in determining the final decision with respect to the application for assistance. The Secretary may make a final decision that is contrary to such a determination if the Secretary includes clinically supported documentation with the decision.

“(6) The Secretary shall ensure that each external clinical review conducted by the independent contractor pursuant to paragraph (1) is completed and the Department is notified in writing of the results of the review by not later than 120 days after the date on which the individual makes the election under such paragraph. Not later than 30 days after the delivery of the determination recommended by the independent contractors, the Secretary shall ensure that the veteran and the individual making the election under such paragraph is notified in writing of the final decision of the Secretary. In accordance with paragraph (5), such notification shall include an explanation of the recommended decision, a discussion of the facts and applicable regulations, and an explanation of the clinical rationale for the final decision.

“(7) The Secretary shall notify individuals who submit an application to be a caregiver or family caregiver
eligible for the program of comprehensive assistance administered by the Secretary pursuant to this section of the ability of the individual to make an election under paragraph (1).

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

(b) APPLICATION.—The amendments made by subsection (a) shall apply with respect to elections under subsection (d) of section 1720G of title 38, United States Code, as added by subsection (a)(2), that are for applications or revocations for assistance for caregivers and family caregivers pursuant to such section for which the Secretary of Veterans Affairs has not made a final decision as of the date of the enactment of this Act.

SEC. 3. PROCESS TO DETERMINE ELIGIBILITY FOR CAREGIVERS OF VETERANS.

(a) DIRECTIVES.—The Secretary of Veterans Affairs shall issue directives regarding the policies, procedures, and operational requirements for the Family Caregiver Program, including with respect to determining the eligibility of an individual to participate in the Family Caregiver Program.

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

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

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

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

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

SEC. 4. MODIFICATION TO LIMITATION ON AWARDS AND
BONUSES.

Section 705 of the Veterans Access, Choice, and Ac-
countability Act of 2014 (Public Law 113–146; 38 U.S.C.
703 note) is amended to read as follows:
“SEC. 705. LIMITATION ON AWARDS AND BONUSES PAID TO EMPLOYEES OF DEPARTMENT OF VETERANS AFFAIRS.

“The Secretary of Veterans Affairs shall ensure that the aggregate amount of awards and bonuses paid by the Secretary in a fiscal year under chapter 45 or 53 of title 5, United States Code, or any other awards or bonuses authorized under such title or title 38, United States Code, does not exceed the following amounts:

“(1) With respect to each of fiscal years 2017 through 2021, $230,000,000.

“(2) With respect to each of fiscal years 2022 through 2024, $360,000,000.”.

Passed the House of Representatives May 23, 2016.

Attest:

Clerk.
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