

EQUAL ACCESS TO CONTRACEPTION FOR VETERANS ACT

SEPTEMBER 22, 2020.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. TAKANO, from the Committee on Veterans' Affairs,  
 submitted the following

R E P O R T

[To accompany H.R. 3798]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 3798) to amend title 38, United States Code, to provide for limitations on copayments for contraception furnished by the Department of Veterans Affairs, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Equal Access to Contraception for Veterans Act”.

**SEC. 2. LIMITATION ON COPAYMENTS FOR CONTRACEPTION.**

Section 1722A(a)(2) of title 38, United States Code, is amended—

(1) by striking “to pay” and all that follows through the period and inserting “to pay—”; and

(2) by adding at the end the following new subparagraphs:

“(A) an amount in excess of the cost to the Secretary for medication described in paragraph (1); or

“(B) an amount for any contraceptive item for which coverage under health insurance coverage is required without the imposition of any cost-sharing requirement pursuant to section 2713(a)(4) of the Public Health Service Act (42 USC 300gg-13(a)(4)).”.

**PURPOSE AND SUMMARY**

H.R. 3798 was introduced by Representative Julia Brownley of California on July 17, 2019. H.R. 3798, as amended, eliminates copayments for contraceptives, so that veterans have the same access to birth control as required by the Affordable Care Act.

**BACKGROUND AND NEED FOR LEGISLATION**

Access to contraception is part of providing comprehensive health services. However, cost sharing can be a barrier for some veterans who need health care services or treatment. Eliminating co-pays will ensure that cost is not a barrier to all veterans accessing preventative health care. Currently, only women veterans and the uninsured are required to pay co-pays for their contraception. This bill brings parity with the Department of Defense and coverage for contraception under the Affordable Care Act. Access to affordable contraceptives is an essential component of comprehensive health care, and since VA patients tend to be sicker and poorer than non-veteran patients, eliminating this inequity will particularly help this population, especially women veterans.

**SEC. 2. LIMITATION ON COPAYMENTS FOR CONTRACEPTION.**

Women represent the fastest growing subpopulation of veterans in the nation, while the population of male veterans is growing smaller. The preventative health care needs of female veterans include access to contraceptives. This bill would exempt from copayment liability the provision of contraceptives by amending section 1772A of title 38, United States Code (USC).

The committee expects that this will apply to all contraceptives available at the pharmacy, including both prescription methods and emergency contraception. In addition, the committee expects that this will also apply to eliminating co-pays for long-acting reversible contraceptives (LARCs), including intra-uterine devices (IUDs) and implants that the Veterans Health Administration (VHA) classifies as prosthetics.

**HEARINGS**

On September 11, 2019, the Subcommittee on Health held a legislative hearing on H.R. 2645; H.R. 2681; H.R. 2752; H.R. 2798; H.R. 2972; H.R. 2982; H.R. 3036; H.R. 3798; H.R. 3636; H.R. 3798; H.R. 3867; H.R. 4096; and a Draft bill, to establish in the Depart-

ment of Veterans Affairs the Office of Women’s Health, and for other purposes. The following witnesses testified: Dr. Teresa Boyd, Assistant Deputy Under Secretary for Health for Clinical Operations, U.S. Department of Veterans Affairs; Mr. Jeremy Butler, CEO, Iraq and Afghanistan Veterans of America; Ms. Joy Ilem, Disabled American Veterans, National Legislative Director; Mr. Roscoe Butler, Associate Legislative Director, Paralyzed Veterans of America. Representative(s) Bilirakis, Correa, Hartzler, Lee, Pappas, Rose, Stefanik, Velázquez, provided statements for the record. Statements were also given by The Veterans of Foreign Wars of the United States, National Association of State Women Veteran Coordinators, and Service Women’s Action Network.

#### SUBCOMMITTEE CONSIDERATION

There was no Subcommittee markup of H.R. 3798.

#### COMMITTEE CONSIDERATION

On March 12, 2020, the full Committee met in an open markup session, a quorum being present, and ordered H.R. 3798, as amended, favorably reported to the House of Representatives by voice vote. During consideration of the bill, the following amendment was considered:

An amendment offered by Representative Phil Roe of Tennessee. This amendment addressed a technical change requested by the Department of Veteran Affairs to strike the words “or service.”

#### COMMITTEE VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, there were no recorded votes taken on amendments or in connection with ordering H.R. 3798, as amended, reported to the House. A motion by Representative Mark Takano of California to report H.R. 3798, as amended, favorably to the House of Representatives was agreed to by voice vote.

#### COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee’s oversight findings and recommendations are reflected in the descriptive portions of this report.

#### STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee’s performance goals and objectives are to improve resources and benefits for women veterans and other underserved veterans.

#### NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by

the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

#### EARMARKS AND TAX AND TARIFF BENEFITS

H.R. 3798, as amended, does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the Rules of the House of Representatives.

#### COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate on H.R. 3798, as amended, prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

#### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate for H.R. 3798, as amended, provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

| <b>H.R. 3798, Equal Access to Contraception for Veterans Act</b>                               |      |                                     |               |
|--|------|-------------------------------------|---------------|
| As ordered reported by the House Committee on Veterans' Affairs on March 12, 2020              |      |                                     |               |
| By Fiscal Year, Millions of Dollars  | 2020 | 2020-2025                           | 2020-2030     |
| Direct Spending (Outlays)  | 0    | 0                                   | 0             |
| Revenues   | 0    | 0                                   | 0             |
| Increase or Decrease (-) in the Deficit  | 0    | 0                                   | 0             |
| Spending Subject to Appropriation (Outlays)  | *    | 5                                   | not estimated |
| Statutory pay-as-you-go procedures apply?  | No   | <b>Mandate Effects</b>              |               |
| Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2031? | No   | Contains intergovernmental mandate? | No            |
|  |      | Contains private-sector mandate?    | No            |
| * = between zero and \$500,000.  |      |                                     |               |

The Department of Veterans Affairs (VA) charges copayments to veterans who receive contraceptive items from the Veterans Health Administration. H.R. 3798 would eliminate those copayments. Collections of copayments for contraceptive items, which totaled \$420,000 in 2018, are deposited in the Medical Care Collections Fund and, subject to appropriation, are spent on medical care for veterans. CBO expects that any reduction in those collections would need to be replaced with additional funding in order to provide the same level of health care to veterans.

Using historical information on copayments from VA and adjusting for an increase in the cost of VA-funded health care that veterans will receive from nonfederal providers, CBO estimates collections over the 2020–2025 period would be reduced by \$5 million. Replacing those amounts and continuing to provide the same level of health care to veterans would cost \$5 million over the 2020–2025

period, CBO estimates; that spending would be subject to the availability of appropriations.

The CBO staff contact for this estimate is Ann E. Futrell. The estimate was reviewed by Leo Lex, Deputy Director of Budget Analysis.

#### FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates regarding H.R. 3798, as amended, prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

#### ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act would be created by H.R. 3798, as amended.

#### STATEMENT OF CONSTITUTIONAL AUTHORITY

Pursuant to Article I, section 8 of the United States Constitution, H.R. 3798, as amended, is authorized by Congress' power to "provide for the common Defense and general Welfare of the United States."

#### APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that H.R. 3798, as amended, does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

#### STATEMENT ON DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee finds that no provision of H.R. 3798, as amended, establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

#### DISCLOSURE OF DIRECTED RULEMAKING

Pursuant to clause 3(c)(5) of rule XIII, the Committee estimates that H.R. 3798 contains no directed rulemaking that would require the Secretary to prescribe regulations.

#### SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

##### *Sec. 1. Short title*

Section 1 names the Act the "Equal Access to Contraception for Veterans Act".

##### *Sec. 2. Limitation on copayments for contraception*

Section 2 amends section 1722A (a)(2) of title 38, United States Code to eliminate copayments on contraceptive items.

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

**TITLE 38, UNITED STATES CODE**

\* \* \* \* \*

**PART II—GENERAL BENEFITS**

\* \* \* \* \*

**CHAPTER 17—HOSPITAL, NURSING HOME,  
DOMICILIARY, AND MEDICAL CARE**

\* \* \* \* \*

**SUBCHAPTER III—MISCELLANEOUS PROVISIONS RELATING  
TO HOSPITAL AND NURSING HOME CARE AND MEDICAL  
TREATMENT OF VETERANS**

\* \* \* \* \*

**§ 1722A. Copayment for medications**

(a)(1) Subject to paragraph (2), the Secretary shall require a veteran to pay the United States \$2 for each 30-day supply of medication furnished such veteran under this chapter on an outpatient basis for the treatment of a non-service-connected disability or condition. If the amount supplied is less than a 30-day supply, the amount of the charge may not be reduced.

(2) The Secretary may not require a veteran **to** pay an amount in excess of the cost to the Secretary for medication described in paragraph (1). **to pay—**

(A) *an amount in excess of the cost to the Secretary for medication described in paragraph (1); or*

(B) *an amount for any contraceptive item for which coverage under health insurance coverage is required without the imposition of any cost-sharing requirement pursuant to section 2713(a)(4) of the Public Health Service Act (42 USC 300gg-13(a)(4)).*

(3) Paragraph (1) does not apply—

(A) to a veteran with a service-connected disability rated 50 percent or more;

(B) to a veteran who is a former prisoner of war;

(C) to a veteran whose annual income (as determined under section 1503 of this title) does not exceed the maximum annual rate of pension which would be payable to such veteran if such veteran were eligible for pension under section 1521 of this title; or

(D) to a veteran who was awarded the medal of honor under section 7271, 8291, or 9271 of title 10 or section 491 of title 14.

(4) Paragraph (1) does not apply to opioid antagonists furnished under this chapter to a veteran who is at high risk for overdose of a specific medication or substance in order to reverse the effect of such an overdose.

(b) The Secretary, pursuant to regulations which the Secretary shall prescribe, may—

(1) increase the copayment amount in effect under subsection (a); and

(2) establish a maximum monthly and a maximum annual pharmaceutical copayment amount under subsection (a) for veterans who have multiple outpatient prescriptions.

(c) Amounts collected under this section shall be deposited in the Department of Veterans Affairs Medical Care Collections Fund.

\* \* \* \* \*