

RESTORING BENEFITS TO DEFRAUDED VETERANS ACT

SEPTEMBER 9, 2024.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

R E P O R T

[To accompany H.R. 4190]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 4190) to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to repay the estates of deceased beneficiaries for certain benefits paid by the Secretary and misused by fiduciaries of such beneficiaries, 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 “Restoring Benefits to Defrauded Veterans Act”.

**SEC. 2. REISSUANCE BY THE SECRETARY OF VETERANS AFFAIRS OF ESTATES OF DECEASED BENEFICIARIES FOR CERTAIN BENEFITS PAID BY THE SECRETARY AND MISUSED BY FIDUCIARIES.**

Section 6107 of title 38, United States Code, is amended—

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

(2) by inserting after subsection (b) the following new subsection (c):

“(c) REISSUANCE OF AMOUNTS IN THE CASE OF A DECEASED BENEFICIARY.—(1) If a beneficiary described in subsection (a) predeceases a payment under subsection (a) or (b), the Secretary shall pay such benefits, subject to paragraph (2), to an individual or entity in accordance with section 5121 of this title.

“(2) The Secretary may not make a payment under this subsection to a fiduciary who misused benefits of the beneficiary.”; and

(3) in subsection (e), as redesignated, by striking “subsection (a) or (b)” and inserting “this section”.

**PURPOSE AND SUMMARY**

H.R. 4190, the “Restoring Benefits to Defrauded Veterans Act,” was introduced by Rep. David J. Trone of Maryland on June 15, 2023. The bill, as amended, would prohibit the Secretary of the Department of Veterans Affairs (VA) from repaying a deceased beneficiary’s misused benefits to a fiduciary who misused the beneficiary’s benefits. Further, if a beneficiary whose benefits were misused predeceases repayment of such misused benefits, the bill would require VA to pay such misused benefits to an individual or individuals first on the list provided in Title 38 U.S.C. § 5121: the veteran’s spouse, the veteran’s children (in equal shares), the veteran’s dependent parents (in equal shares), etc.

**BACKGROUND AND NEED FOR LEGISLATION***Section 1: Short Title*

This Act may be cited as the “Restoring Benefits to Defrauded Veterans Act.”

*Section 2: Reissuance by the Secretary of Veterans Affairs of Estates of Deceased Beneficiaries for Certain Benefits Paid by the Secretary and Misused by Fiduciaries*

VA appoints fiduciaries for veterans who are unable to manage their VA benefits. Fiduciaries receive payments of VA funds on behalf of veterans and disburse those funds for the veterans’ care and support. “Misuse” is when a fiduciary spends a veteran’s VA benefit payments for something other than the veteran’s benefit.

According to a July 21, 2021, report by the VA Office of Inspector General,<sup>1</sup> there have been significant wait times at VA to ensure that beneficiaries who are victims of misuse are made financially whole, and in some cases, veterans have died before receiving reimbursements of their misused benefits. However, current law does not address who would receive the repayment of misused funds when the beneficiary passes away before VA issues repayment. Therefore, VA is not authorized under statute to repay any individual or entity any misused funds if the beneficiary predeceases the repayment.

<sup>1</sup>VA Office of Inspector General, *VBA’s Fiduciary Program Needs to Improve the Timeliness of Determinations and Reimbursements of Misused Funds*, July 21, 2021.

In his written testimony at the November 8, 2023, Subcommittee on Disability Assistance and Memorial Affairs legislative hearing, Mr. Shane L. Liermann, Deputy National Legislative Director for Disabled American Veterans, stated: “Under current statute . . . if a veteran dies before their case with VA concerning misused funds by the fiduciary is resolved, the veteran’s family cannot seek reimbursement for these funds.”<sup>2</sup>

In a statement for the record for the November 8, 2023, Subcommittee on Disability Assistance and Memorial Affairs legislative hearing, Paralyzed Veterans of America (PVA) stated that legislation should “prevent[] any family members involved in the fraudulent activity from benefiting from funds restored to the veteran’s estate.”<sup>3</sup>

To address this issue, this section would authorize VA, in cases where a beneficiary predeceases the repayment of misused funds, to repay such misused benefits to an individual or individuals first on the list provided in Title 38 U.S.C. §5121: the veteran’s spouse, the veteran’s children (in equal shares), the veteran’s dependent parents (in equal shares), etc. This section would also ensure that no fiduciary who misused a beneficiary’s funds can receive such repayment of such misused funds.

The Committee believes it is important to give VA the authority to repay misused VA benefits to the family member(s) of beneficiaries who predeceased the repayment of their misused VA benefits. The Committee also believes this section is crucial to ensure that no fiduciary who misused a beneficiary’s benefits can profit from their misuse when the beneficiary passes away.

#### HEARINGS

On November 8, 2023, the Subcommittee on Disability Assistance and Memorial Affairs held a legislative hearing on H.R. 4190 and other bills that were pending before the subcommittee.

The following witnesses testified:

The Honorable Morgan Luttrell, U.S. House of Representatives; The Honorable Mike Bost, U.S. House of Representatives; The Honorable Elissa Slotkin, U.S. House of Representatives; The Honorable Juan Ciscomani, U.S. House of Representatives; The Honorable Abigail Davis Spanberger, U.S. House of Representatives; The Honorable Keith Self, U.S. House of Representatives; The Honorable David J. Trone, U.S. House of Representatives; The Honorable Darrell Issa, U.S. House of Representatives; Ms. Beth Murphy, Executive Director, Compensation Service, Veterans Benefits Administration, U.S. Department of Veterans Affairs; Mr. Kevin Friel, Deputy Director, Pension & Fiduciary Service, Veterans Benefits Administration, U.S. Department of Veterans Affairs; Mr. Kenneth Arnold, Vice Chairman, Board of Veterans’ Appeals, U.S. Department of Veterans Affairs; Mr. Shane Liermann, Deputy National Legislative Director, Disabled American Veterans;

<sup>2</sup> Statement of Shane L. Liermann, Disabled American Veterans (dated October 24, 2023), <https://docs.house.gov/meetings/VR/VR09/20231108/116450/HHRG-118-VR09-Wstate-LiermannS-20231108.pdf>.

<sup>3</sup> Statement for the Record from Paralyzed Veterans of America (dated October 24, 2023), <https://docs.house.gov/meetings/VR/VR09/20231108/116450/HHRG-118-VR09-20231108-SD004.pdf>.

Ms. Quandrea N. Patterson, Associate Director, Veterans of Foreign Wars of the United States; and Mr. Zachary M. Stolz, Partner, Chisholm, Chisholm, & Kilpatrick LTD.

The following individuals and organizations submitted statements for the record:

The Honorable Gerald E. Connolly, U.S. House of Representatives; The ALS Association; American Veterans (AMVETS); National Organization of Veterans' Advocates (NOVA); Paralyzed Veterans of America (PVA); Quality. Timeliness. Customer Service (QTC); Special Operations Association of America; Service Women's Action Network, and Military Veterans Advocacy.

#### SUBCOMMITTEE CONSIDERATION

On November 29, 2023, the Subcommittee on Disability Assistance and Memorial Affairs met in an open markup session on proposed legislation, including H.R. 4190. An amendment in the nature of a substitute to H.R. 4190 offered by Ranking Member Pappas was adopted by voice vote and the bill was ordered favorably forwarded for consideration by the full Committee on Veterans' Affairs. The amendment in the nature of a substitute aligned the list of the individual or entity who could receive repayment of misused funds when the beneficiary predeceases repayment of such misused funds, with the list in 38 U.S.C. § 5121.

#### COMMITTEE CONSIDERATION

On December 5, 2023, the full Committee met in open markup session, a quorum being present, and ordered H.R. 4190, as amended, be reported favorably to the House of Representatives by voice vote.

A motion by Ranking Member Takano to report H.R. 4190, as amended, favorably to the House of Representatives was agreed to by voice vote.

#### COMMITTEE VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, no recorded votes were taken on amendments or in connection with ordering H.R. 4190, as amended, reported to the House.

#### 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 of H.R. 4190, as amended, are to ensure that VA issues payments of VA benefits to the proper individuals and to ensure that no fiduciaries can profit from misusing a beneficiary's VA benefits.

## EARMARKS AND TAX AND TARIFF BENEFITS

H.R. 4190, 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 Congressional Budget Office cost estimate on this measure.

## BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

<b>H.R. 4190, Restoring Benefits to Defrauded Veterans Act</b>			
As ordered reported by the House Committee on Veterans' Affairs on December 5, 2023			
By Fiscal Year, Millions of Dollars	2024	2024-2028	2024-2033
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	0	0
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Statutory pay-as-you-go procedures apply?	No
		<b>Mandate Effects</b>	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

H.R. 4190 would specify how the Department of Veterans Affairs (VA) should distribute certain benefits to survivors of intended recipients who die before those benefits are paid.

Under current law, veterans and survivors who are deemed unable to manage benefits they receive from VA may have someone assigned to administer those benefits on their behalf. Those fiduciaries, who are appointed and supervised by VA, are responsible for accepting the benefits and ensuring that they are used to support the intended recipient. When fiduciaries misuse some or all of those benefits, VA must reissue the misused portion to the intended beneficiary or a successor fiduciary.

Unlike other accrued VA benefits, current law does not specify the hierarchy for distributing reissued benefits among a recipient's survivors if the intended recipient dies before VA makes the payment. Under the bill, the reissued benefits would be paid according to the same hierarchy used for distributing other accrued VA benefits to survivors of deceased beneficiaries. Because the bill would not affect the amount of reissued funds (which are paid from mandatory appropriations), enacting the bill would not affect direct spending for VA benefits. Implementing the bill would not affect the administrative costs of distributing reissued benefits to survivors, CBO estimates.

The CBO staff contact for this estimate is Logan Smith. The estimate was reviewed by Christina Hawley Anthony, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,  
*Director, Congressional Budget Office.*

#### FEDERAL MANDATES STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandate Reform Act, P.L. 104–4) is inapplicable to H.R. 4190, as amended.

#### 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. 4190, as amended.

#### APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that H.R. 4190, 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. 4190, as amended, would establish or reauthorize 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.

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

##### *Section 1. Short title*

Section 1 would establish the short title of the bill as the “Restoring Benefits to Defrauded Veterans Act.”

##### *Section 2. Reissuance by the Secretary of Veterans Affairs of estates of deceased beneficiaries for certain benefits paid by the Secretary and misused by fiduciaries*

Section 2 would amend 38 U.S.C. § 6107 by inserting a new subsection (c) that would require the Secretary to pay benefits that were misused to an individual or entity in accordance with 38 U.S.C. § 5121, when the beneficiary whose benefits were misused predeceases such payment. This section would also prohibit the Secretary from making a payment under this subsection to a fiduciary who misused the beneficiary’s benefits.

#### 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 omit-

ted is enclosed in black brackets, new matter is printed in italics, 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**

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**PART IV—GENERAL ADMINISTRATIVE PROVISIONS**

\* \* \* \* \*

**CHAPTER 61—PENAL AND FORFEITURE PROVISIONS**

\* \* \* \* \*

**§ 6107. Reissuance of benefits**

(a) **NEGLIGENT FAILURE BY SECRETARY.**—(1) In any case in which the negligent failure of the Secretary to investigate or monitor a fiduciary results in misuse of benefits by the fiduciary, the Secretary shall pay to the beneficiary or the beneficiary's successor fiduciary an amount equal to the amount of benefits that were so misused.

(2) There shall be considered to have been a negligent failure by the Secretary to investigate and monitor a fiduciary in the following cases:

(A) A case in which the Secretary failed to review a fiduciary's accounting within 60 days of the date on which that accounting is scheduled for review.

(B) A case in which the Secretary was notified of allegations of misuse, but failed to act within 60 days of the date of such notification to terminate the fiduciary.

(C) In any other case in which actual negligence is shown.

(b) **REISSUANCE OF MISUSED BENEFITS IN OTHER CASES.**—(1) In any case not covered by subsection (a) in which a fiduciary misuses all or part of an individual's benefit paid to such fiduciary, the Secretary shall pay to the beneficiary or the beneficiary's successor fiduciary an amount equal to the amount of such benefit so misused.

(2) In any other case in which the Secretary obtains recoupment from a fiduciary who has misused benefits, the Secretary shall promptly remit payment of the recouped amounts to the beneficiary or the beneficiary's successor fiduciary as the case may be.

(c) **REISSUANCE OF AMOUNTS IN THE CASE OF A DECEASED BENEFICIARY.**—(1) *If a beneficiary described in subsection (a) predeceases a payment under subsection (a) or (b), the Secretary shall pay such benefits, subject to paragraph (2), to an individual or entity in accordance with section 5121 of this title.*

*(2) The Secretary may not make a payment under this subsection to a fiduciary who misused benefits of the beneficiary.*

**[(c)]** *(d) LIMITATION ON TOTAL AMOUNT PAID.*—The total of the amounts paid to a beneficiary (or a beneficiary’s successor fiduciary) under this section may not exceed the total benefit amount misused by the fiduciary with respect to that beneficiary.

**[(d)]** *(e) RECOUPMENT OF AMOUNTS REISSUED.*—In any case in which the Secretary reissues a benefit payment (in whole or in part) under **[subsection (a) or (b)]** *this section*, the Secretary shall make a good faith effort to obtain recoupment from the fiduciary to whom the payment was originally made.

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