

105TH CONGRESS
1ST SESSION

H. R. 1631

To amend title 5, United States Code, to make coverage under the health benefits program for Federal employees available to military dependents and military retirees, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 15, 1997

Mr. MICA introduced the following bill; which was referred to the Committee on Government Reform and Oversight, and in addition to the Committee on National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title 5, United States Code, to make coverage under the health benefits program for Federal employees available to military dependents and military retirees, 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 “Military Health Care
5 Choice Act of 1997”.

1 **SEC. 2. ELIGIBILITY.**

2 (a) IN GENERAL.—Chapter 89 of title 5, United
3 States Code, is amended by adding at the end the follow-
4 ing:

5 **“§ 8915. Military dependents and military retirees**

6 “(a) EXTENSION OF COVERAGE.—The Office of Per-
7 sonnel Management, in consultation with the appropriate
8 Secretaries, shall take such steps as may be necessary in
9 order to make benefits under this chapter available to mili-
10 tary retirees, military dependents, and others, in accord-
11 ance with this section.

12 “(b) ELECTION OF COVERAGE UNDER THIS CHAP-
13 TER INSTEAD OF CHAPTER 55 OF TITLE 10.—

14 “(1) ELECTIONS AVAILABLE.—

15 “(A) TO AN ACTIVE DUTY MEMBER.—A
16 member of a regular component of the Armed
17 Forces on active duty who is entitled to medical
18 and dental care under section 1074(a) of title
19 10 may enroll such member’s qualified depend-
20 ents in an approved health benefits plan de-
21 scribed by section 8903 or 8903a, under ei-
22 ther—

23 “(i) an enrollment for all qualified de-
24 pendents; or

25 “(ii) a single qualified dependent en-
26 rollment, except that such an enrollment—

1 “(I) shall not be available unless,
2 at the time of enrollment, the member
3 has only 1 qualified dependent; and

4 “(II) shall not be transferable.

5 “(B) TO A MILITARY RETIREE.—A mem-
6 ber or former member of the Armed Forces who
7 is eligible for medical and dental care under
8 section 1074(b) of title 10 (or who would be so
9 eligible, but for section 1073a(b) of title 10)
10 may enroll in an approved health benefits plan
11 described by section 8903 or 8903a, either—

12 “(i) as an individual; or

13 “(ii) for self and all qualified depend-
14 ents.

15 “(C) TO A SURVIVING DEPENDENT.—A
16 survivor of a member or former member under
17 subparagraph (A) or (B) who, at the time of
18 death of such member or former member, was
19 enrolled in an approved health benefits plan de-
20 scribed by section 8903 or 8903a as a qualified
21 dependent of such member or former member
22 may continue his or her enrollment under the
23 conditions of eligibility prescribed by regula-
24 tions of the Office.

1 “(D) TO A FORMER SPOUSE.—A former
2 spouse of a member or former member under
3 subparagraph (A) or (B) may, with respect to
4 any period during which such former spouse
5 would otherwise be ineligible for medical or den-
6 tal care under chapter 55 of title 10 by reason
7 of section 1073a(b) of such title, enroll in an
8 approved health benefits plan described by sec-
9 tion 8903 or 8903a, either—

10 “(i) as an individual; or

11 “(ii) for self and all qualified depend-
12 ents (subject to restrictions similar to
13 those set forth in section 8905(c)(2)(B)).

14 “(E) TO A PERSON WITH CONTINUED COV-
15 ERAGE UNDER SECTION 1078A OF TITLE 10.—
16 The Office, in consultation with the appropriate
17 Secretaries, shall prescribe regulations under
18 which an election under this section shall be
19 available to persons to whom section 1078a of
20 title 10 would otherwise apply.

21 “(2) CIRCUMSTANCES IN WHICH AN ELECTION
22 IS ALLOWED OR NOT ALLOWED.—

23 “(A) ELECTIONS ALLOWED.—An election
24 under paragraph (1) shall be allowed—

1 “(i) during the open enrollment period
2 immediately preceding the first contract
3 year beginning after the end of the 12-
4 month period beginning on the date of the
5 enactment of the Military Health Care
6 Choice Act of 1997 and the open enroll-
7 ment period occurring every third year
8 thereafter; and

9 “(ii) at such other times and under
10 such conditions as the Office may pre-
11 scribe.

12 “(B) ELECTIONS NOT ALLOWED.—Not-
13 withstanding any other provision of this section,
14 an election under paragraph (1) shall not be al-
15 lowed if not permitted by reason of section
16 1073a(c)(2) of title 10.

17 “(3) DEFINITION OF A QUALIFIED DEPEND-
18 ENT.—For the purpose of this section, the term
19 ‘qualified dependent’, as used with respect to an ac-
20 tive duty member, a military retiree, or any other
21 person, means an individual who—

22 “(A) is a member of the family of such
23 person (as determined under regulations of the
24 Office similar to the provisions of section
25 8901(5)); and

“(B) would then qualify as a covered beneficiary under chapter 55 of title 10, if the Military Health Care Choice Act of 1997 had never been enacted.

“(4) DEFINITION OF A FORMER SPOUSE.—

“(A) IN GENERAL.—Notwithstanding section 8901(10), for purposes of this section, the term ‘former spouse’, with respect to a member or former member under paragraph (1)(A) or (B), means a former spouse of such member or former member—

“(i) who has not remarried before age 55 after the marriage to the member or former member was dissolved;

“(ii) who was enrolled in an approved health benefits plan under this chapter based on that individual’s relationship to such member or former member at any time during the 18-month period before the date of dissolution of their marriage; and

“(iii)(I) who is receiving (or is entitled to) any portion of retired or retainer pay under section 1408 of title 10, or of an annuity under section 1450(f)(4) of title 10,

1 which is based on the service of such mem-
2 ber or former member; or

3 “(II) as to whom an election under
4 section 1448 of title 10 has been made by
5 such member or former member.

6 “(B) SPECIAL RULES.—

7 “(i) IF DISSOLUTION OCCURRED BE-
8 FORE COVERAGE UNDER THIS CHAPTER
9 FIRST BECAME AVAILABLE.—In any in-
10 stance in which the date of dissolution of
11 marriage precedes the date on which elec-
12 tions under this section first become avail-
13 able, clause (ii) of subparagraph (A) shall
14 be waived in the case of any individual who
15 satisfies the requirements of subparagraph
16 (F), (G), or (H) of section 1072(2) of title
17 10 with respect to the member or former
18 member involved.

19 “(ii) IF COVERAGE WAS PRECLUDED
20 SOLELY BY LIMITATION ON TOTAL NUM-
21 BER OF ELECTIONS ALLOWABLE UNDER
22 THIS SECTION.—Clause (ii) of subpara-
23 graph (A) shall be considered to have been
24 met in the case of any individual who
25 would have satisfied such clause, based on

1 an election properly filed under subsection
 2 (b)(1), but for the fact that such election
 3 was not allowed to take effect solely by
 4 reason of subsection (i).

5 “(c) EFFECT ON ELIGIBILITY FOR CARE UNDER
 6 TITLE 10.—

“For provisions relating to the effect that an election under subsection (b)(1) has with respect to coverage under chapter 55 of title 10, see section 1073a(b) of such title.

7 “(d) BENEFITS TO BE PROVIDED UNDER THIS
 8 CHAPTER.—

9 “(1) IN GENERAL.—The coverage provided to a
 10 covered beneficiary enrolled in a health benefits plan
 11 under this chapter shall—

12 “(A) if the covered beneficiary is the indi-
 13 vidual making the election of coverage under
 14 subparagraph (B), (C), (D), or (E) of sub-
 15 section (b)(1), be the same as for an employee
 16 enrolled in the same health benefits plan and
 17 level of benefits; and

18 “(B) in the case of any other covered bene-
 19 ficiary, be the same as for an individual en-
 20 rolled in the same health benefits plan and level
 21 of benefits as a family member of an employee.

22 “(2) RIGHT TO PARTICIPATE FULLY.—The Of-
 23 fice shall ensure that, to the extent feasible, once an

1 election under subsection (b)(1) is made, then, until
2 such election is terminated, the electing individual
3 and all covered beneficiaries of such individual (de-
4 termined in the same manner as under section
5 1073a(b)(1)(B) of title 10) shall remain eligible to
6 change plans, commence or terminate coverage, and
7 otherwise participate in the program under this
8 chapter, to the same extent and in the same manner
9 as employees and their family members (consistent
10 with the requirements of this section).

11 “(e) DUAL COVERAGE NOT PERMITTED.—The Of-
12 fice, together with the appropriate Secretaries, shall take
13 such steps as may be necessary to prevent any instance
14 of dual coverage (whether under this chapter alone or tak-
15 ing chapter 55 of title 10 into account) which is not other-
16 wise precluded by law.

17 “(f) CHARGES.—Charges for enrollments under this
18 section shall be fixed in accordance with the following:

19 “(1) INDIVIDUAL COVERAGE.—The total
20 charges for an individual enrollment under sub-
21 section (b)(1) (including a single qualified dependent
22 enrollment under subsection (b)(1)(A)(ii)) shall be
23 the same as for an employee enrolled in the same
24 health benefits plan and level of benefits for self
25 alone.

1 “(2) FAMILY COVERAGE.—The total charges for
2 any enrollment under this section, other than an en-
3 rollment to which paragraph (1) applies, shall be the
4 same as for an employee enrolled in the same health
5 benefits plan and level of benefits for self and fam-
6 ily.

7 “(g) CONTRIBUTIONS.—

8 “(1) BY AN INDIVIDUAL.—

9 “(A) IN GENERAL.—The amount necessary
10 to pay the total charges for enrollment under
11 this section, after the Government contribution
12 under paragraph (2) is deducted (if any), shall
13 be borne by the electing individual under sub-
14 section (b)(1).

15 “(B) METHOD OF PAYMENT.—Payments
16 under this paragraph shall be made in accord-
17 ance with the following:

18 “(i) ACTIVE DUTY MEMBER.—If the
19 election is made under subsection
20 (b)(1)(A), by withholdings from pay of the
21 electing individual.

22 “(ii) MILITARY RETIREE.—If the elec-
23 tion is made under subsection (b)(1)(B),
24 by withholdings from retired or retainer
25 pay of the electing individual, subject, if

1 necessary, to arrangements similar to those
2 under section 8906(i).

3 “(iii) OTHER CASES.—If the election
4 is made by an individual other than an in-
5 dividual referred to in clause (i) or (ii),
6 under such arrangements as the Office
7 shall prescribe.

8 “(2) BY THE GOVERNMENT.—

9 “(A) IN GENERAL.—Each of the appro-
10 priate Secretaries may, in that Secretary’s sole
11 discretion and for purposes of individuals under
12 the jurisdiction of that Secretary, specify
13 whether any Government contributions will be
14 made toward meeting the subscription charge
15 for coverage elected under subsection (b)(1),
16 and, if so, at what level.

17 “(B) RESTRICTIONS.—No Government
18 contribution under this paragraph shall be pay-
19 able—

20 “(i) to defray any charges other than
21 those that would otherwise be borne by an
22 electing individual under subsection
23 (b)(1)(A) or (B); or

24 “(ii) in an amount greater than the
25 amount of the Government contribution

1 which would be payable under this section
2 on behalf of an employee enrolled in the
3 same health benefits plan and level of ben-
4 efits—

5 “(I) for self alone (in the case of
6 an enrollment to which subsection
7 (f)(1) applies); or

8 “(II) for self and family (in the
9 case of any other enrollment).

10 “(C) NOTICE.—A decision under subpara-
11 graph (A) shall be conclusive and not subject to
12 subchapter II of chapter 5. Notice of any such
13 decision shall be provided to the Office in such
14 time, form, and manner as the Office shall by
15 regulation prescribe.

16 “(D) PROCEDURES.—Any contributions
17 under this paragraph shall be made under such
18 arrangements as may be agreed to by the Office
19 and the Secretary involved, and may be made
20 from any funds otherwise available to such Sec-
21 retary for such purpose.

22 “(h) TERMINATION.—An election made by an individ-
23 ual under subsection (b)(1) shall terminate upon the oc-
24 currence of any of the following:

1 “(1) AN ELECTION TO HAVE COVERAGE UNDER
2 TITLE 10 RESTORED.—The taking effect of an elec-
3 tion under section 1073a(c)(1) of title 10 by such in-
4 dividual.

5 “(2) ANY OTHER TERMINATING EVENT.—Any
6 other event which the Office may, in consultation
7 with the appropriate Secretaries, by regulation pre-
8 scribe.

9 “(i) TEMPORARY LIMITATIONS.—

10 “(1) IN GENERAL.—Effective with respect to
11 the first 3 contract years to which this section ap-
12 plies, elections under this section shall be permitted
13 only to the extent that they would not cause the
14 total number of elections in effect under this section
15 (irrespective of the number of individuals affected by
16 those elections) at any time to exceed—

17 “(A) 100,000 during the first such con-
18 tract year;

19 “(B) 200,000 during the second such con-
20 tract year; or

21 “(C) 400,000 during the third such con-
22 tract year.

23 “(2) COORDINATION.—The Office shall issue
24 guidelines in accordance with which the appropriate
25 Secretaries shall arrange for any coordination of ef-

1 forts needed in order to comply with the limitations
2 under paragraph (1).

3 “(3) RANDOMIZATION.—An election under sub-
4 section (b)(1) may not be denied, by reason of this
5 subsection, based on any factor other than when
6 such election is made.

7 “(j) INFORMATION TO ELIGIBLES.—The Office shall
8 be responsible for carrying out the requirements of section
9 8907 with respect to all individuals who may be affected
10 by this section. Upon request of the Office, the appro-
11 priate Secretaries shall furnish such information as the
12 Office requires to carry out this subsection.

13 “(k) REGULATIONS.—Any regulations necessary to
14 carry out this section shall be prescribed by the Office,
15 in consultation with the appropriate Secretaries. Such reg-
16 ulations shall include provisions under which contracts
17 under this chapter may provide for benefits and coverage,
18 to persons covered by a health benefits plan pursuant to
19 an election under this section, for care and treatment re-
20 ceived through a military facility.”.

21 (b) CHAPTER ANALYSIS.—The analysis for chapter
22 89 of title 5, United States Code, is amended by adding
23 at the end the following:

“8915. Military dependents and military retirees”.

1 **SEC. 3. CONFORMING AMENDMENTS TO TITLE 10, UNITED**
2 **STATES CODE.**

3 (a) EFFECT OF ENROLLMENT.—Chapter 55 of title
4 10, United States Code, is amended by inserting after sec-
5 tion 1073 the following new section:

6 **“§ 1073a. Coverage under Federal employee health**
7 **benefits program: effect of enrollment,**
8 **termination**

9 “(a) AVAILABILITY OF COVERAGE.—Pursuant to sec-
10 tion 8915 of title 5, covered beneficiaries may become en-
11 rolled in an approved health benefits plan under chapter
12 89 of title 5 in lieu of obtaining medical or dental care
13 as otherwise provided under this chapter.

14 “(b) EFFECT OF ENROLLMENT.—(1) If coverage
15 under chapter 89 of title 5 is elected under section
16 8915(b)(1) of such title, then, until such election is termi-
17 nated, all rights to medical or dental care under this chap-
18 ter shall cease with respect to—

19 “(A) the individual making the election; and

20 “(B) all covered beneficiaries of such individual
21 (whether or not actually enrolled in a health benefits
22 plan under chapter 89 of title 5), as identified under
23 regulations prescribed under section 8915 of title 5.

24 “(2) Nothing in paragraph (1) shall affect—

25 “(A) any right of a member of the uniformed
26 services on active duty to obtain medical or dental

1 care or any other benefit for the member under this
2 chapter; or

3 “(B) the eligibility of a covered beneficiary to
4 obtain medical or dental care or any other benefit
5 under this chapter, if—

6 “(i) such eligibility is based on the rela-
7 tionship of the covered beneficiary to an individ-
8 ual other than an electing individual under sec-
9 tion 8915(b)(1) of title 5; and

10 “(ii) the covered beneficiary is not enrolled
11 in a health benefits plan under chapter 89 of
12 title 5.

13 “(c) RESTORATION OF COVERAGE UNDER THIS
14 CHAPTER.—(1) An individual making an election under
15 section 8915 of title 5 may, after the expiration of a 3-
16 year exclusionary period similar to the one described in
17 paragraph (2) (including exceptions thereunder), elect to
18 restore coverage under this chapter for all persons who
19 would then otherwise be ineligible therefor by reason of
20 such individual’s earlier election under title 5. Restoration
21 of coverage under this chapter terminates eligibility for
22 coverage under chapter 89 of title 5 on the part of the
23 persons whose coverage is so restored.

24 “(2) If eligibility for coverage under chapter 89 of
25 title 5 is terminated by an election under paragraph (1),

1 the electing individual may not make a subsequent election
 2 under section 8915 of title 5 if coverage under such chap-
 3 ter would (but for this paragraph) take effect within the
 4 3-year period beginning on the effective date of the termi-
 5 nation referred to in paragraph (1). The Office of Person-
 6 nel Management, in consultation with the appropriate ad-
 7 ministering Secretaries, may provide exceptions to this 3-
 8 year exclusionary period.”.

9 (b) CLERICAL AMENDMENT.—The table of sections
 10 at the beginning of such chapter is amended by inserting
 11 after the item relating to section 1073 the following new
 12 item:

“1073a. Coverage under Federal employee health benefits program: effect of en-
 rollment, termination.”.

13 **SEC. 4. TECHNICAL AND CONFORMING PROVISIONS RELAT-**
 14 **ING TO TITLE 5.**

15 (a) REFERENCES TO ENROLLEES.—

16 (1) REFERENCES THAT INCLUDE FAMILY MEM-
 17 BERS.—

18 (A) IN GENERAL.—Any reference to per-
 19 sons enrolled in a health benefits plan under
 20 chapter 89 of title 5, United States Code (in-
 21 cluding family members), made in any provision
 22 of law identified under subparagraph (B), shall
 23 be considered to include individuals who become

1 so enrolled pursuant to section 8915 of such
2 title (including dependents).

3 (B) CITATIONS.—The provisions identified
4 under this subparagraph are as follows:

5 (i) Sections 8902(g), 8902(j),
6 8902(k)(1), 8902a(a)(1)(B), 8903(1), and
7 the first sentence of 8913(c) of such title.

8 (ii) Such other provisions of law as
9 the Office of Personnel Management may
10 by regulation identify for purposes of this
11 paragraph.

12 (2) REFERENCES THAT DO NOT INCLUDE FAM-
13 ILY MEMBERS.—

14 (A) IN GENERAL.—Any reference to per-
15 sons enrolled in a health benefits plan under
16 chapter 89 of such title (excluding family mem-
17 bers), made in any provision of law identified
18 under subparagraph (B), shall be considered to
19 include individuals who become so enrolled pur-
20 suant to section 8915 of such title (excluding
21 dependents).

22 (B) CITATIONS.—The provisions identified
23 under this subparagraph are as follows:

24 (i) Sections 8902(e), 8905(f)(1)–(2),
25 and 8909(d) of such title.

1 (ii) Such other provisions of law as
2 the Office of Personnel Management may
3 by regulation identify for purposes of this
4 paragraph.

5 (b) EMPLOYEES HEALTH BENEFITS FUND.—The
6 first sentence of section 8909(a) of title 5, United States
7 Code, is amended by striking “section 8906 of this title”
8 and inserting “section 8906 and 8915, respectively,”.

9 **SEC. 5. DEFINITIONS.**

10 Section 8901 of title 5, United States Code, is
11 amended—

12 (1) by striking “and” at the end of paragraph
13 (10);

14 (2) by striking the period at the end of para-
15 graph (11) and inserting a semicolon; and

16 (3) by adding at the end the following:

17 “(12) ‘appropriate Secretaries’ means—

18 “(A) the Secretary of Defense; and

19 “(B) the Secretary of Transportation, for
20 purposes of the Coast Guard when the Coast
21 Guard is not operating as a service in the Navy;

22 “(13) ‘military retiree’ means a member or
23 former member of the armed forces described in sec-
24 tion 8915(b)(1)(B);

1 “(14) ‘military dependent’ means a covered
2 beneficiary (other than a military retiree) who is eli-
3 gible for coverage under this chapter by virtue of
4 being a dependent of an active duty member or of
5 a military retiree;

6 “(15) ‘covered beneficiary’ has the meaning
7 given that term by section 1072(5) of title 10, sub-
8 ject to such modifications as the Office may by regu-
9 lation prescribe for purposes of carrying out section
10 8915 (and other provisions of this chapter in con-
11 nection therewith);

12 “(16) ‘active duty member’ means a member of
13 the armed forces described in section 8915(b)(1)(A);

14 “(17) ‘qualified dependent’ has the meaning
15 given that term by section 8915(b)(3); and

16 “(18) ‘open enrollment period’ means a period
17 provided for under section 8905(f)(1).”.

○