

105TH CONGRESS  
2D SESSION

# H. R. 3613

To amend title 10, United States Code, to permit certain beneficiaries of the military health care system to enroll in Federal employees health benefits plans.

---

## IN THE HOUSE OF REPRESENTATIVES

MARCH 31, 1998

Mr. WATTS of Oklahoma (for himself, Mr. CUNNINGHAM, Mr. THORNBERRY, Mr. MICA, Mr. INGLIS of South Carolina, Mr. CANNON, Mr. BARR of Georgia, Mr. RIGGS, Mr. HANSEN, Mr. GOODE, Mr. NORWOOD, Mr. HUNTER, Mr. FILNER, Mr. PICKERING, Mr. SESSIONS, Mr. MCCOLLUM, Mr. METCALF, Mr. GIBBONS, Mr. RYUN, Mr. ENSIGN, Mr. BILBRAY, Mr. FOX of Pennsylvania, Mr. BOEHLERT, Mrs. EMERSON, Mr. COOK, Mr. JENKINS, Mr. ENGLISH of Pennsylvania, Mrs. CHENOWETH, Mr. PALLONE, Mr. BARTLETT of Maryland, Mr. MCINTYRE, Mr. CONDIT, Mr. REDMOND, Mrs. LINDA SMITH of Washington, Mr. BAKER, Mr. COSTELLO, Mr. ROYCE, Mr. LOBIONDO, and Ms. GRANGER) introduced the following bill; which was referred to the Committee on National Security, and in addition to the Committee on Government Reform and Oversight, 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 10, United States Code, to permit certain beneficiaries of the military health care system to enroll in Federal employees health benefits plans.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Military Health Care  
3 Fairness Act”.

4 **SEC. 2. INCLUSION OF CERTAIN COVERED BENEFICIARIES**  
5 **IN FEDERAL EMPLOYEES HEALTH BENEFITS**  
6 **PROGRAM.**

7       (a) FEHBP OPTION.—(1) Chapter 55 of title 10,  
8 United States Code, is amended by inserting after section  
9 1079a the following new section:

10 **“§ 1079b. Health care coverage through Federal Em-**  
11 **ployees Health Benefits program**

12       “(a) FEHBP OPTION.—(1) Subject to the availabil-  
13 ity of funds to carry out this section for a fiscal year, eligi-  
14 ble beneficiaries described in subsection (b) shall be af-  
15 forded an opportunity to enroll in any health benefits plan  
16 under the Federal Employee Health Benefits program  
17 under chapter 89 of title 5, United States Code, offering  
18 medical care comparable to the care authorized by section  
19 1077 of this title to be provided under section 1076 of  
20 this title (in this section referred to as an ‘FEHBP plan’).

21       “(2) The Secretary of Defense and the other admin-  
22 istering Secretaries shall jointly enter into an agreement  
23 with the Director of the Office of Personnel Management  
24 to carry out paragraph (1).

25       “(b) ELIGIBLE BENEFICIARIES.—(1) An eligible ben-  
26 eficiary referred to in subsection (a) is a covered bene-

1 ficiary who is a military retiree (except a military retiree  
2 retired under chapter 1223 of this title), a dependent of  
3 such a retiree described in section 1072(2)(B) or (C), or  
4 a dependent described in section 1072(2)(A), (D), or (I)  
5 of such a retiree who enrolls in an FEHBP plan, who,—

6 “(A) is not guaranteed access under TRICARE  
7 to health care that is comparable to the health care  
8 benefits provided under the service benefit plan of-  
9 fered under the Federal Employee Health Benefits  
10 program;

11 “(B) is eligible to enroll in the TRICARE pro-  
12 gram but is not enrolled because of the location of  
13 the beneficiary, a limitation on the total enrollment,  
14 or any other reason; or

15 “(C) is entitled to hospital insurance benefits  
16 under part A of title XVIII of the Social Security  
17 Act (42 U.S.C. 1395c et seq.).

18 “(2) In addition to the eligibility requirements de-  
19 scribed in paragraph (1), during the first two years that  
20 covered beneficiaries are offered the opportunity to enroll  
21 in an FEHBP plan under subsection (a), eligible bene-  
22 ficiaries shall be limited to—

23 “(A) except as provided in subparagraph (B),  
24 military retirees 65 years of age or older; and

1           “(B) military retirees retired under chapter 61  
2       of this title.

3           “(3) An eligible beneficiary shall not be required to  
4       satisfy any eligibility criteria specified in chapter 89 of  
5       title 5 as a condition for enrollment in an FEHBP plan.

6           “(c) PRIORITIES; LIST.—(1) Eligible beneficiaries  
7       shall be permitted to enroll in an FEHBP plan based on  
8       the order in which such beneficiaries apply to enroll in  
9       the plan.

10          “(2) The Secretary shall maintain a list of eligible  
11       beneficiaries who apply to enroll in an FEHBP plan, but  
12       whom the Secretary is not able to enroll because of the  
13       lack of available funds to carry out this section.

14          “(d) PERIOD OF ENROLLMENT.—The Secretary shall  
15       provide a period of enrollment for eligible beneficiaries in  
16       an FEHBP plan for a period of 90 days—

17               “(A) before implementation of the program de-  
18       scribed in subsection (a); and

19               “(B) each subsequent year thereafter.

20          “(e) TERM OF ENROLLMENT.—(1) The minimum pe-  
21       riod of enrollment in an FEHBP plan shall be three years.

22          “(2) A beneficiary who elects to enroll in an FEHBP  
23       plan, and who subsequently discontinues enrollment in the  
24       plan before the end of the period described in paragraph  
25       (1), shall not be eligible to reenroll in the plan.

1       “(f) RECEIPT OF CARE IN MTF.—(1) An eligible  
2 beneficiary enrolled in an FEHBP plan may receive care  
3 at a military medical treatment facility subject to the  
4 availability of space in such facility, except that the plan  
5 shall reimburse the facility for the cost of such treatment.  
6 The plan may adjust beneficiary copayments so that re-  
7 ceipt of such care at a military medical treatment facility  
8 results in no additional costs to the plan, as compared with  
9 the costs that would have been incurred if care had been  
10 received from a provider in the plan.

11       “(g) CONTRIBUTIONS.—(1) Contributions shall be  
12 made for an enrollment of an eligible beneficiary in a plan  
13 of the Federal Employee Health Benefits program under  
14 this section as if the beneficiary were an employee of the  
15 Federal Government.

16       “(2) The administering Secretary concerned shall be  
17 responsible for the Government contributions that the Di-  
18 rector of the Office of Personnel Management determines  
19 would be payable by the Secretary under section 8906 of  
20 title 5 for an enrolled eligible beneficiary if the beneficiary  
21 were an employee of the Secretary.

22       “(3) Each eligible beneficiary enrolled in an FEHBP  
23 plan shall be required to contribute the amount that would  
24 be withheld from the pay of a similarly situated Federal

1 employee who is enrolled in the same health benefits plan  
2 under chapter 89 of title 5.

3 “(h) MANAGEMENT OF PARTICIPATION.—The Direc-  
4 tor of the Office of Personnel Management shall manage  
5 the participation of an eligible beneficiary in a health ben-  
6 efits plan of the Federal Employee Health Benefits pro-  
7 gram pursuant to an enrollment under this section. The  
8 Director shall maintain separate risk pools for participat-  
9 ing eligible beneficiaries until such time as the Director  
10 determines that inclusion of participating eligible bene-  
11 ficiaries under chapter 89 of title 5 will not adversely af-  
12 fect Federal employees and annuitants enrolled in health  
13 benefits plans under such chapter.

14 “(i) REPORTING REQUIREMENTS.—(1) Not later  
15 than November 1 of each year, the Secretary of Defense  
16 and the Director of the Office of Personnel Management  
17 shall jointly submit to Congress a report describing the  
18 provision of health care services to enrollees under this  
19 section during the preceding fiscal year. The report shall  
20 address or contain the following:

21 “(A) The number of eligible beneficiaries who  
22 are participating in health benefits plans of the Fed-  
23 eral Employee Health Benefits program pursuant to  
24 an enrollment under this section, both in terms of  
25 total number and as a percentage of all covered

1 beneficiaries who are receiving health care through  
2 the health care system of the uniformed services.

3 “(B) The extent to which eligible beneficiaries  
4 use the health care services available to the bene-  
5 ficiaries under health benefits plans pursuant to en-  
6 rollments under this section.

7 “(C) The cost to enrollees for health care under  
8 such health benefits plans.

9 “(D) The cost to the Department of Defense,  
10 the Department of Transportation, the Department  
11 of Health and Human Services, and any other de-  
12 partments and agencies of the Federal Government  
13 of providing care to eligible beneficiaries pursuant to  
14 enrollments in such health benefits plans under this  
15 section.

16 “(E) A comparison of the costs determined  
17 under paragraphs (C) and (D) and the costs that  
18 would otherwise have been incurred by the United  
19 States and enrollees under alternative health care  
20 options available to the administering Secretaries.

21 “(F) The effects of the exercise of authority  
22 under this section on the cost, access, and utilization  
23 rates of other health care options under the health  
24 care system of the uniformed services.

1       “(2) Not later than the date that is four years after  
 2 the date of enactment of the National Defense Authoriza-  
 3 tion Act for fiscal year 1999, the Secretary of Defense  
 4 shall submit to Congress a report describing—

5               “(A) whether the Secretary recommends that a  
 6 health care option for retired covered beneficiaries  
 7 equivalent to the option described in subsection (a)  
 8 be permanently offered to such beneficiaries; and

9               “(B) the estimated costs of offering such an op-  
 10 tion.”.

11       (2) The table of sections at the beginning of such  
 12 chapter is amended by inserting after the item relating  
 13 to section 1079a the following:

“1079b. Health care coverage through Federal Employees Health Benefits pro-  
 gram.”.

14       (b) CONFORMING AMENDMENTS.—(1) Section 8905  
 15 of title 5, United States Code, is amended—

16               (A) by redesignating subsections (d), (e), and  
 17 (f) as subsections (e), (f), and (g), respectively; and

18               (B) by inserting after subsection (c) the follow-  
 19 ing new subsection (d):

20       “(d) An individual whom the Secretary of Defense de-  
 21 termines is an eligible beneficiary under subsection (b) of  
 22 section 1079b of title 10 may enroll in a health benefits  
 23 plan under this chapter in accordance with the agreement  
 24 entered into under subsection (a) of such section between



1 the Secretary and the Office and with applicable regula-  
2 tions under this chapter.”.

3 (2) Section 8906 of title 5, United States Code, is  
4 amended—

5 (A) in subsection (b)—

6 (i) in paragraph (1), by striking “para-  
7 graphs (2) and (3)” and inserting in lieu there-  
8 of “paragraphs (2), (3), and (4)”; and

9 (ii) by adding at the end the following new  
10 paragraph:

11 “(4) In the case of individuals who enroll in a health  
12 plan under section 8905(d) of this title, the Government  
13 contribution shall be determined under section 1079b(g)  
14 of title 10.”; and

15 (B) in subsection (g)—

16 (i) in paragraph (1), by striking “para-  
17 graph (2)” and inserting in lieu thereof “para-  
18 graphs (2) and (3)”; and

19 (ii) by adding at the end the following new  
20 paragraph:

21 “(3) The Government contribution described in sub-  
22 section (b)(4) for beneficiaries who enroll under section  
23 8905(d) of this title shall be paid as provided in section  
24 1079b(g) of title 10.”.

25 (c) IMPLEMENTATION.—The Secretary of Defense—

1           (1) shall begin to offer the health benefits op-  
2           tion under section 1079b(a) of title 10, United  
3           States Code (as added by subsection (a)) not later  
4           than the date that is 6 months after the date of the  
5           enactment of this Act; and

6           (2) shall continue to offer such option through  
7           the year 2003, and to provide care to eligible cov-  
8           ered beneficiaries under such section through the  
9           year 2005.

10          (d) AUTHORIZATION OF APPROPRIATIONS.—Out of  
11 funds authorized to be appropriated for the Department  
12 of Defense for military personnel, there shall be available  
13 to offer the health benefits option under section 1079b(a)  
14 of title 10, United States Code (as added by subsection  
15 (a)), the following:

16           (1) \$100 million for fiscal year 1999.

17           (2) \$200 million for fiscal year 2000.

18           (3) \$300 million for fiscal year 2001.

19           (4) \$400 million for fiscal year 2002.

20           (5) \$500 million for fiscal year 2003.

21           (6) such sums as necessary for fiscal year 2004.

22           (7) such sums as necessary for fiscal year 2005.

○