

Union Calendar No. 464

105TH CONGRESS
2D Session

H. R. 3828

[Report No. 105-793, Part I]

A BILL

To amend title XVIII of the Social Security Act to improve access to health care services for certain Medicare-eligible veterans.

OCTOBER 20, 1998

Committees on Veterans' Affairs and Commerce discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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To amend title XVIII of the Social Security Act to improve access to health care services for certain Medicare-eligible veterans.

IN THE HOUSE OF REPRESENTATIVES

MAY 12, 1998

Mr. THOMAS (for himself, Mr. STUMP, Mr. BILIRAKIS, Mr. SPENCE, Mr. RANGEL, Mr. STEARNS, Mr. HOUGHTON, Mrs. JOHNSON of Connecticut, Mr. SAM JOHNSON of Texas, Mr. MCCRERY, Mr. BARRETT of Nebraska, Mr. BEREUTER, Mr. BOEHLERT, Mrs. CHENOWETH, Mr. CHRISTENSEN, Mr. COLLINS, Mr. COMBEST, Mr. COOK, Mr. COOKSEY, Mr. CRANE, Mr. CUNNINGHAM, Mr. DEAL of Georgia, Mr. DOYLE, Mr. EDWARDS, Mr. EHRLICH, Mrs. EMERSON, Mr. ENGLISH of Pennsylvania, Mr. ENSIGN, Mr. EVERETT, Mrs. FOWLER, Mr. FOX of Pennsylvania, Mr. FROST, Mr. GONZALEZ, Mr. GOODLING, Ms. GRANGER, Mr. GREENWOOD, Mr. HALL of Ohio, Mr. HALL of Texas, Mr. HAYWORTH, Mr. HEFNER, Mr. HERGER, Mr. HOLDEN, Mr. HULSHOF, Mr. HUNTER, Mr. HUTCHINSON, Mrs. KELLY, Mr. KUCINICH, Mr. LAHOOD, Mr. LAMPSON, Mr. LANTOS, Mr. LIPINSKI, Mr. MANZULLO, Mr. METCALF, Mr. NETHERCUTT, Mr. PORTMAN, Mr. REDMOND, Mrs. ROUKEMA, Mr. RUSH, Mr. SANDERS, Mr. SANDLIN, Mr. SAXTON, Mr. SERRANO, Mr. SKEEN, Mr. SMITH of New Jersey, Mr. SOLOMON, Mr. STUPAK, Mr. TANNER, Mrs. THURMAN, Mr. TIAHRT, Mr. UPTON, Mr. WALSH, Mr. WATKINS, Mr. WATTS of Oklahoma, Mr. WHITFIELD, and Ms. WOOLSEY) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Veterans' Affairs, and Commerce, 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

OCTOBER 7, 1998

Reported from the Committee on Ways and Means with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

OCTOBER 7, 1998

Referral to the Committees on Veterans' Affairs and Commerce extended for a period ending not later than October 9, 1998

OCTOBER 9, 1998

Referral to the Committees on Veterans' Affairs and Commerce extended for a period ending not later than October 16, 1998

OCTOBER 16, 1998

Referral to the Committees on Veterans' Affairs and Commerce extended for a period ending not later than October 20, 1998

OCTOBER 20, 1998

Additional sponsors: Mr. NUSSLE, Mr. WELLER, Mr. RAMSTAD, Mr. PETERSON of Pennsylvania, Mr. BUNNING, Mr. GUTKNECHT, Mr. BOUCHER, Mr. DOOLEY of California, Mrs. BONO, Mr. PICKERING, Mr. DAVIS of Illinois, Mr. ALLEN, Ms. SLAUGHTER, Mr. THOMPSON, Mr. NORWOOD, Mrs. WILSON, Mr. STENHOLM, and Mr. CONDIT

OCTOBER 20, 1998

Committees on Veterans' Affairs and Commerce discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on May 12, 1998]

A BILL

To amend title XVIII of the Social Security Act to improve access to health care services for certain Medicare-eligible veterans.

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; PURPOSES.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the “Vet-*
 5 *erans Medicare Access Improvement Act of 1998”.*

6 (b) *PURPOSES.*—*The purposes of this Act are—*

1 (1) *to establish a program that permits Medi-*
 2 *care-eligible veterans who have a service-connected*
 3 *disability or are financially needy and for whom ac-*
 4 *cess to medical care of the Department of Veterans Af-*
 5 *fairs has been historically deficient because of geo-*
 6 *graphic remoteness or inaccessibility to receive their*
 7 *Medicare benefits through a service network of provid-*
 8 *ers established by the Department of Veterans Affairs;*
 9 *and*

10 (2) *to establish a 3-year demonstration project*
 11 *that permits other Medicare-eligible veterans to re-*
 12 *ceive such benefits through the Department of Veter-*
 13 *ans Affairs.*

14 **SEC. 2. IMPROVEMENT IN VETERANS' ACCESS TO SERVICES**
 15 **UNDER MEDICARE PROGRAM.**

16 (a) *IN GENERAL.*—*Title XVIII of the Social Security*
 17 *Act, as amended by sections 4603, 4801, and 4015(a) of*
 18 *the Balanced Budget Act of 1997, is amended by adding*
 19 *at the end the following:*

20 “*IMPROVING VETERANS' ACCESS TO SERVICES*

21 “*SEC. 1897. (a) DEFINITIONS.*—*In this section:*

22 “*(1) ADMINISTERING SECRETARIES.*—*The term*
 23 *‘administering Secretaries’ means the Secretary of*
 24 *Health and Human Services and the Secretary of*
 25 *Veterans Affairs acting jointly.*

1 “(2) *PROGRAM.*—*The term ‘program’ means the*
2 *program established under this section with respect to*
3 *category A Medicare-eligible veterans.*

4 “(3) *DEMONSTRATION PROJECT; PROJECT.*—*The*
5 *terms ‘demonstration project’ and ‘project’ mean the*
6 *demonstration project carried out under this section*
7 *with respect to category C Medicare-eligible veterans.*

8 “(4) *MEDICARE-ELIGIBLE VETERANS.*—

9 “(A) *CATEGORY A MEDICARE-ELIGIBLE VET-*
10 *ERAN.*—*The term ‘category A Medicare-eligible*
11 *veteran’ means an individual—*

12 “(i) *who is a veteran (as defined in*
13 *section 101(2) of title 38, United States*
14 *Code) and is described in paragraph (1) or*
15 *(2) of section 1710(a) of title 38, United*
16 *States Code;*

17 “(ii) *who is entitled to hospital insur-*
18 *ance benefits under part A of the Medicare*
19 *Program and is enrolled in the supple-*
20 *mentary medical insurance program under*
21 *part B of the Medicare Program; and*

22 “(iii) *for whom the medical center of*
23 *the Department of Veterans Affairs that is*
24 *closest to the individual’s place of residence*

1 *is geographically remote or inaccessible*
2 *from such place.*

3 “(B) *CATEGORY C MEDICARE-ELIGIBLE VET-*
4 *ERAN.—The term ‘category C Medicare-eligible*
5 *veteran’ means an individual who—*

6 “(i) *is a veteran (as defined in section*
7 *101(2) of title 38, United States Code) and*
8 *is described in section 1710(a)(3) of title 38,*
9 *United States Code; and*

10 “(ii) *is entitled to hospital insurance*
11 *benefits under part A of the Medicare Pro-*
12 *gram and is enrolled in the supplementary*
13 *medical insurance program under part B of*
14 *the Medicare Program.*

15 “(5) *MEDICARE HEALTH CARE SERVICES.—The*
16 *term ‘Medicare health care services’ means items or*
17 *services covered under part A or B of this title.*

18 “(6) *TRUST FUNDS.—The term ‘trust funds’*
19 *means the Federal Hospital Insurance Trust Fund es-*
20 *tablished in section 1817 and the Federal Supple-*
21 *mentary Medical Insurance Trust Fund established in*
22 *section 1841.*

23 “(b) *PROGRAM AND DEMONSTRATION PROJECT.—*

24 “(1) *IN GENERAL.—*

1 “(A) *ESTABLISHMENT.*—*The administering*
2 *Secretaries are authorized to establish—*

3 “(i) *a program (under an agreement*
4 *entered into by the administering Secretar-*
5 *ies) under which the Secretary of Health*
6 *and Human Services shall reimburse the*
7 *Secretary of Veterans Affairs, from the trust*
8 *funds, for Medicare health care services fur-*
9 *nished to category A Medicare-eligible veter-*
10 *ans; and*

11 “(ii) *a demonstration project (under*
12 *such an agreement) under which the Sec-*
13 *retary of Health and Human Services shall*
14 *reimburse the Secretary of Veterans Affairs,*
15 *from the trust funds, for Medicare health*
16 *care services furnished to category C Medi-*
17 *care-eligible veterans.*

18 “(B) *AGREEMENT.*—*The agreement entered*
19 *into under subparagraph (A) shall include at a*
20 *minimum—*

21 “(i) *a description of the benefits to be*
22 *provided to the participants of the program*
23 *and the demonstration project established*
24 *under this section;*

1 “(ii) a description of the eligibility
2 rules for participation in the program and
3 demonstration project, including any cost
4 sharing requirements;

5 “(iii) a description of the process for
6 enrolling veterans for participation in the
7 program, which process may, to the extent
8 practicable, be administered in the same or
9 similar manner to the registration process
10 established to implement section 1705 of
11 title 38, United States Code;

12 “(iv) a description of how the program
13 and the demonstration project will satisfy
14 the requirements under this title;

15 “(v) a description of the sites selected
16 under paragraph (2);

17 “(vi) a description of how reimburse-
18 ment requirements under subsection (g) and
19 maintenance of effort requirements under
20 subsection (h) will be implemented in the
21 program and in the demonstration project;

22 “(vii) a statement that all data of the
23 Department of Veterans Affairs and of the
24 Department of Health and Human Services
25 that the administering Secretaries deter-

1 *mine is necessary to conduct independent*
2 *estimates and audits of the maintenance of*
3 *effort requirement, the annual reconcili-*
4 *ation, and related matters required under*
5 *the program and the demonstration project*
6 *shall be available to the administering Sec-*
7 *retaries;*

8 “(viii) *a description of any require-*
9 *ment that the Secretary of Health and*
10 *Human Services waives pursuant to sub-*
11 *section (d);*

12 “(ix) *a requirement that the Secretary*
13 *of Veterans Affairs undertake and maintain*
14 *outreach and marketing activities, consist-*
15 *ent with capacity limits under the program,*
16 *for category A Medicare-eligible veterans;*

17 “(x) *a description of how the admin-*
18 *istering Secretaries shall conduct the data*
19 *matching program under subparagraph (F),*
20 *including the frequency of updates to the*
21 *comparisons performed under subparagraph*
22 *(F)(ii); and*

23 “(xi) *a statement by the Secretary of*
24 *Veterans Affairs that the type or amount of*
25 *health care services furnished under chapter*

1 17 of title 38, United States Code, to veter-
2 ans who are entitled to benefits under part
3 A or enrolled under part B, or both, shall
4 not be reduced by reason of the program or
5 project.

6 “(C) *COST-SHARING UNDER DEMONSTRA-*
7 *TION PROJECT.*—Notwithstanding any provision
8 of title 38, United States Code, in order—

9 “(i) to maintain and broaden access to
10 services,

11 “(ii) to encourage appropriate use of
12 services, and

13 “(iii) to control costs,
14 the Secretary of Veterans Affairs may establish
15 enrollment fees and copayment requirements
16 under the demonstration project under this sec-
17 tion consistent with subsection (d)(1). Such fees
18 and requirements may vary based on income.

19 “(D) *HEALTH CARE BENEFITS.*—The ad-
20 ministering Secretaries shall prescribe the mini-
21 mum health care benefits to be provided under
22 the program and demonstration project to Medi-
23 care-eligible veterans enrolled in the program or
24 project. Those benefits shall include at least all

1 *Medicare health care services covered under this*
2 *title.*

3 “(E) *ESTABLISHMENT OF SERVICE NET-*
4 *WORKS.—*

5 “(i) *USE OF VA OUTPATIENT CLIN-*
6 *ICS.—The Secretary of Veterans Affairs, to*
7 *the extent practicable, shall use outpatient*
8 *clinics of the Department of Veterans Af-*
9 *fairs in providing services under the pro-*
10 *gram.*

11 “(ii) *AUTHORITY TO CONTRACT FOR*
12 *SERVICES.—The Secretary of Veterans Af-*
13 *fairs may enter into contracts and arrange-*
14 *ments with entities (such as private practi-*
15 *tioners, providers of services, preferred pro-*
16 *vider organizations, and health care plans)*
17 *for the provision of services for which the*
18 *Secretary of Health and Human Services is*
19 *responsible under the program or project*
20 *under this section and shall take into ac-*
21 *count the existence of qualified practitioners*
22 *and providers in the areas in which the*
23 *program or project is being conducted.*
24 *Under such contracts and arrangements,*
25 *such Secretary of Health and Human Serv-*

1 ices may require the entities to furnish such
2 information as such Secretary may require
3 to carry out this section.

4 “(F) DATA MATCH.—

5 “(i) ESTABLISHMENT OF DATA MATCH-
6 ING PROGRAM.—The administering Sec-
7 retaries shall establish a data matching pro-
8 gram under which there is an exchange of
9 information of the Department of Veterans
10 Affairs and of the Department of Health
11 and Human Services as is necessary to
12 identify veterans who are entitled to benefits
13 under part A or enrolled under part B, or
14 both, in order to carry out this section. The
15 provisions of section 552a of title 5, United
16 States Code, shall apply with respect to
17 such matching program only to the extent
18 the administering Secretaries find it fea-
19 sible and appropriate in carrying out this
20 section in a timely and efficient manner.

21 “(ii) PERFORMANCE OF DATA
22 MATCH.—The administering Secretaries,
23 using the data matching program estab-
24 lished under clause (i), shall perform a com-
25 parison in order to identify veterans who

1 *are entitled to benefits under part A or en-*
2 *rolled under part B, or both. To the extent*
3 *such Secretaries deem appropriate to carry*
4 *out this section, the comparison and identi-*
5 *fication may distinguish among such veter-*
6 *ans by category of veterans, by entitlement*
7 *to benefits under this title, or by other char-*
8 *acteristics.*

9 “(iii) *DEADLINE FOR FIRST DATA*
10 *MATCH.—The administering Secretaries*
11 *shall first perform a comparison under*
12 *clause (ii) by not later than October 31,*
13 *1998.*

14 “(iv) *CERTIFICATION BY INSPECTOR*
15 *GENERAL.—*

16 “(I) *IN GENERAL.—The admin-*
17 *istering Secretaries may not conduct*
18 *the program unless the Inspector Gen-*
19 *eral of the Department of Health and*
20 *Human Services certifies to Congress*
21 *that the administering Secretaries have*
22 *established the data matching program*
23 *under clause (i) and have performed a*
24 *comparison under clause (ii).*

1 “(II) *DEADLINE FOR CERTIFI-*
2 *CATION.—Not later than December 15,*
3 *1998, the Inspector General of the De-*
4 *partment of Health and Human Serv-*
5 *ices shall submit a report to Congress*
6 *containing the certification under sub-*
7 *clause (I) or the denial of such certifi-*
8 *cation.*

9 “(2) *NUMBER OF SITES.—The program and*
10 *demonstration project shall be conducted in geo-*
11 *graphic service areas of the Department of Veterans*
12 *Affairs, designated jointly by the administering Sec-*
13 *retaries after review of all such areas, as follows:*

14 “(A) *PROGRAM SITES.—*

15 “(i) *IN GENERAL.—Except as provided*
16 *in clause (ii), the program shall be con-*
17 *ducted in not more than 3 such areas with*
18 *respect to category A Medicare-eligible vet-*
19 *erans.*

20 “(ii) *ADDITIONAL PROGRAM SITES.—*
21 *Subject to the certification required under*
22 *subsection (h)(1)(B)(iii), for a year begin-*
23 *ning on or after January 1, 2003, the pro-*
24 *gram shall be conducted in such areas as*

1 *are designated jointly by the administering*
2 *Secretaries after review of all such areas.*

3 “(B) *PROJECT SITES.*—

4 “(i) *IN GENERAL.*—*The demonstration*
5 *project shall be conducted in not more than*
6 *3 such areas with respect to category C*
7 *Medicare-eligible veterans.*

8 “(ii) *MANDATORY SITE.*—*At least one*
9 *of the areas designated under clause (i)*
10 *shall encompass the catchment area of a*
11 *military medical facility which was closed*
12 *pursuant to either the Defense Base Closure*
13 *and Realignment Act of 1990 (part A of*
14 *title XXIX of Public Law 101–510; 10*
15 *U.S.C. 2687 note) or title II of the Defense*
16 *Authorization Amendments and Base Clo-*
17 *sure and Realignment Act (Public Law*
18 *100–526; 10 U.S.C. 2687 note).*

19 “(3) *RESTRICTION.*—*Funds from the program or*
20 *demonstration project shall not be used for—*

21 “(A) *the construction of any treatment fa-*
22 *cility of the Department of Veterans Affairs; or*

23 “(B) *the renovation, expansion, or other*
24 *construction at such a facility.*

1 “(4) *DURATION.*—*The administering Secretaries*
2 *shall conduct and implement the program and the*
3 *demonstration project as follows:*

4 “(A) *PROGRAM.*—

5 “(i) *IN GENERAL.*—*The program shall*
6 *begin on January 1, 2000, in the sites des-*
7 *ignated under paragraph (2)(A)(i) and,*
8 *subject to subsection (h)(1)(B)(iii)(II), for a*
9 *year beginning on or after January 1,*
10 *2003, the program may be conducted in*
11 *such additional sites designated under*
12 *paragraph (2)(A)(ii).*

13 “(ii) *LIMITATION ON NUMBER OF VET-*
14 *ERANS COVERED UNDER CERTAIN CIR-*
15 *CUMSTANCES.*—*If for a year beginning on*
16 *or after January 1, 2003, the program is*
17 *conducted only in the sites designated under*
18 *paragraph (2)(A)(i), Medicare health care*
19 *services may not be provided under the pro-*
20 *gram to a number of category-A Medicare-*
21 *eligible veterans that exceeds the aggregate*
22 *number of such veterans covered under the*
23 *program as of December 31, 2002.*

1 “(B) *PROJECT.*—*The demonstration project*
2 *shall begin on January 1, 1999, and end on De-*
3 *cember 31, 2001.*

4 “(C) *IMPLEMENTATION.*—*The administering*
5 *Secretaries may implement the program and*
6 *demonstration project through the publication of*
7 *regulations that take effect on an interim basis,*
8 *after notice and pending opportunity for public*
9 *comment.*

10 “(5) *REPORTS.*—

11 “(A) *PROGRAM.*—*By not later than Sep-*
12 *tember 1, 1999, the administering Secretaries*
13 *shall submit a copy of the agreement entered into*
14 *under paragraph (1) with respect to the program*
15 *to Congress.*

16 “(B) *PROJECT.*—*By not later than Septem-*
17 *ber 1, 1998, the administering Secretaries shall*
18 *submit a copy of the agreement entered into*
19 *under paragraph (1) with respect to the project*
20 *to Congress.*

21 “(6) *REPORT ON MAINTENANCE OF LEVEL OF*
22 *HEALTH CARE SERVICES.*—

23 “(A) *IN GENERAL.*—*The Secretary of Veter-*
24 *ans Affairs may not implement the program at*
25 *a site designated under paragraph (2)(A) unless,*

1 *by not later than 90 days before the date of the*
2 *implementation, the Secretary of Veterans Af-*
3 *airs submits to Congress and to the Comptroller*
4 *General of the United States a report that con-*
5 *tains the information described in subparagraph*
6 *(B). The Secretary of Veterans Affairs shall peri-*
7 *odically update the report under this paragraph*
8 *as appropriate.*

9 “(B) *INFORMATION DESCRIBED.*—*For pur-*
10 *poses of subparagraph (A), the information de-*
11 *scribed in this subparagraph is a description of*
12 *the operation of the program at the site and of*
13 *the steps to be taken by the Secretary of Veterans*
14 *Affairs to prevent the reduction of the type or*
15 *amount of health care services furnished under*
16 *chapter 17 of title 38, United States Code, to vet-*
17 *erans who are entitled to benefits under part A*
18 *or enrolled under part B, or both, within the geo-*
19 *graphic service area of the Department of Veter-*
20 *ans Affairs in which the site is located by reason*
21 *of the program or project.*

22 “(c) *CREDITING OF PAYMENTS.*—*A payment received*
23 *by the Secretary of Veterans Affairs under the program or*
24 *demonstration project shall be credited to the applicable De-*
25 *partment of Veterans Affairs medical care appropriation*

1 *(and within that appropriation). Any such payment re-*
 2 *ceived during a fiscal year for services provided during a*
 3 *prior fiscal year may be obligated by the Secretary of Veter-*
 4 *ans Affairs during the fiscal year during which the pay-*
 5 *ment is received.*

6 “(d) *APPLICATION OF CERTAIN MEDICARE REQUIRE-*
 7 *MENTS.—*

8 “(1) *AUTHORITY.—*

9 “(A) *IN GENERAL.—Except as provided*
 10 *under subparagraph (B), the program and the*
 11 *demonstration project shall meet all requirements*
 12 *of Medicare+Choice plans under part C and reg-*
 13 *ulations pertaining thereto, and other require-*
 14 *ments for receiving Medicare payments, except*
 15 *that the prohibition of payments to Federal pro-*
 16 *viders of services under sections 1814(c) and*
 17 *1835(d), and paragraphs (2) and (3) of section*
 18 *1862(a) shall not apply.*

19 “(B) *WAIVER.—Except as provided in*
 20 *paragraph (2), the Secretary of Health and*
 21 *Human Services is authorized to waive any re-*
 22 *quirement described under subparagraph (A), or*
 23 *approve equivalent or alternative ways of meet-*
 24 *ing such a requirement, but only if such waiver*
 25 *or approval—*

1 “(i) reflects the unique status of the
2 Department of Veterans Affairs as an agen-
3 cy of the Federal Government; and

4 “(ii) is necessary to carry out the pro-
5 gram or demonstration project.

6 “(2) *BENEFICIARY PROTECTIONS AND OTHER*
7 *MATTERS.*—The program and the demonstration
8 project shall comply with the requirements of part C
9 of this title that relate to beneficiary protections and
10 other matters, including such requirements relating to
11 the following areas, to the extent not inconsistent with
12 subsection (b)(1)(B)(iii):

13 “(A) Enrollment and disenrollment.

14 “(B) Nondiscrimination.

15 “(C) Information provided to beneficiaries.

16 “(D) Cost-sharing limitations.

17 “(E) Appeal and grievance procedures.

18 “(F) Provider participation.

19 “(G) Access to services.

20 “(H) Quality assurance and external re-
21 view.

22 “(I) Advance directives.

23 “(J) Other areas of beneficiary protections
24 that the administering Secretaries determine are
25 applicable to such program or project.

1 “(e) *INSPECTOR GENERAL.*—*Nothing in the agreement*
2 *entered into under subsection (b) shall limit the Inspector*
3 *General of the Department of Health and Human Services*
4 *from investigating any matters regarding the expenditure*
5 *of funds under this title for the program and demonstration*
6 *project, including compliance with the provisions of this*
7 *title and all other relevant laws.*

8 “(f) *VOLUNTARY PARTICIPATION.*—*Participation of a*
9 *category A Medicare-eligible veteran in the program or cat-*
10 *egory C Medicare-eligible veteran in the demonstration*
11 *project shall be voluntary.*

12 “(g) *PAYMENTS BASED ON REGULAR MEDICARE PAY-*
13 *MENT RATES.*—

14 “(1) *IN GENERAL.*—*Subject to the succeeding*
15 *provisions of this subsection, the Secretary of Health*
16 *and Human Services shall reimburse the Secretary of*
17 *Veterans Affairs for services provided under the pro-*
18 *gram or demonstration project at a rate equal to 95*
19 *percent of the amount paid to a Medicare+Choice or-*
20 *ganization under part C of this title with respect to*
21 *such an enrollee. In cases in which a payment*
22 *amount may not otherwise be readily computed, the*
23 *Secretary of Health and Human Services shall estab-*
24 *lish rules for computing equivalent or comparable*
25 *payment amounts.*

1 “(2) *EXCLUSION OF CERTAIN AMOUNTS.*—*In*
 2 *computing the amount of payment under paragraph*
 3 *(1), the following shall be excluded:*

4 “(A) *SPECIAL PAYMENTS.*—*Any amount at-*
 5 *tributable to an adjustment under subparagraphs*
 6 *(B) and (F) of section 1886(d)(5) and subsection*
 7 *(h) of such section.*

8 “(B) *PERCENTAGE OF CAPITAL PAY-*
 9 *MENTS.*—*An amount determined by the admin-*
 10 *istering Secretaries for amounts attributable to*
 11 *payments for capital-related costs under sub-*
 12 *section (g) of such section.*

13 “(3) *PERIODIC PAYMENTS FROM MEDICARE*
 14 *TRUST FUNDS.*—*Payments under this subsection shall*
 15 *be made—*

16 “(A) *on a periodic basis consistent with the*
 17 *periodicity of payments under this title; and*

18 “(B) *in appropriate part, as determined by*
 19 *the Secretary of Health and Human Services,*
 20 *from the trust funds.*

21 “(4) *CAP ON REIMBURSEMENT AMOUNTS.*—*The*
 22 *aggregate amount to be reimbursed under this sub-*
 23 *section pursuant to the agreement entered into be-*
 24 *tween the administering Secretaries under subsection*
 25 *(b) is as follows:*

1 “(A) *PROGRAM.*—*With respect to category A*
 2 *Medicare-eligible veterans, such aggregate*
 3 *amount shall not exceed—*

4 “(i) *for 2000, a total of \$50,000,000;*

5 “(ii) *for 2001, a total of \$75,000,000;*

6 *and*

7 “(iii) *subject to subparagraph (B), for*
 8 *2002 and each succeeding year, a total of*
 9 *\$100,000,000.*

10 “(B) *EXPANSION OF PROGRAM.*—*If for a*
 11 *year beginning on or after January 1, 2003, the*
 12 *program is conducted in sites designated under*
 13 *subsection (b)(2)(A)(ii), the limitation under*
 14 *subparagraph (A)(iii) shall not apply to the pro-*
 15 *gram for such a year.*

16 “(C) *PROJECT.*—*With respect to category C*
 17 *Medicare-eligible veterans, such aggregate*
 18 *amount shall not exceed a total of \$50,000,000*
 19 *for each of calendar years 1999 through 2001.*

20 “(h) *MAINTENANCE OF EFFORT.*—

21 “(1) *MONITORING EFFECT OF PROGRAM AND*
 22 *DEMONSTRATION PROJECT ON COSTS TO MEDICARE*
 23 *PROGRAM.*—

24 “(A) *IN GENERAL.*—*The administering Sec-*
 25 *retaries, in consultation with the Comptroller*

1 *General of the United States, shall closely mon-*
2 *itor the expenditures made under this title for*
3 *category A and C Medicare-eligible veterans com-*
4 *pared to the expenditures that would have been*
5 *made for such veterans if the program and dem-*
6 *onstration project had not been conducted. The*
7 *agreement entered into by the administering Sec-*
8 *retaries under subsection (b) shall require the*
9 *Department of Veterans Affairs to maintain*
10 *overall the level of effort for services covered*
11 *under this title to such categories of veterans by*
12 *reference to a base year as determined by the ad-*
13 *ministering Secretaries.*

14 *“(B) DETERMINATION OF MEASURE OF*
15 *COSTS OF MEDICARE HEALTH CARE SERVICES.—*

16 *“(i) IMPROVEMENT OF INFORMATION*
17 *MANAGEMENT SYSTEM.—Not later than Oc-*
18 *tober 1, 2001, the Secretary of Veterans Af-*
19 *airs shall improve its information manage-*
20 *ment system such that, for a year beginning*
21 *on or after January 1, 2002, the Secretary*
22 *of Veterans Affairs is able to identify costs*
23 *incurred by the Department of Veterans Af-*
24 *airs in providing Medicare health care*
25 *services to Medicare-eligible veterans for*

1 *purposes of meeting the requirements with*
2 *respect to maintenance of effort under an*
3 *agreement under subsection (b)(1)(A).*

4 “(ii) *IDENTIFICATION OF MEDICARE*
5 *HEALTH CARE SERVICES.—The Secretary of*
6 *Health and Human Services shall provide*
7 *such assistance as is necessary for the Sec-*
8 *retary of Veterans Affairs to determine*
9 *which health care services furnished by the*
10 *Secretary of Veterans Affairs qualify as*
11 *Medicare health care services.*

12 “(iii) *CERTIFICATION BY HHS INSPEC-*
13 *TOR GENERAL.—*

14 “(I) *REQUEST FOR CERTIFI-*
15 *CATION.—The Secretary of Veterans*
16 *Affairs may request the Inspector Gen-*
17 *eral of the Department of Health and*
18 *Human Services to make a certifi-*
19 *cation to Congress that the Secretary of*
20 *Veterans Affairs has improved its man-*
21 *agement system under clause (i) such*
22 *that the Secretary of Veterans Affairs*
23 *is able to identify the costs described in*
24 *such clause in a reasonably reliable*
25 *and accurate manner.*

1 “(II) *REQUIREMENT FOR EXPAN-*
2 *SION OF PROGRAM.*—*The program may*
3 *be conducted in the additional sites*
4 *under paragraph (2)(A)(ii) and cover*
5 *such additional category A Medicare*
6 *eligible veterans in such additional*
7 *sites only if the Inspector General of*
8 *the Department of Health and Human*
9 *Services has made the certification de-*
10 *scribed in subclause (I).*

11 “(III) *DEADLINE FOR CERTIFI-*
12 *CATION.*—*Not later than the date that*
13 *is the earlier of the date that is 60*
14 *days after the Secretary of Veterans Af-*
15 *fairs requests a certification under sub-*
16 *clause (I) or June 1, 2002, the Inspec-*
17 *tor General of the Department of*
18 *Health and Human Services shall sub-*
19 *mit a report to Congress containing*
20 *the certification under subclause (I) or*
21 *the denial of such certification.*

22 “(C) *MAINTENANCE OF LEVEL OF EF-*
23 *FORT.*—

24 “(i) *REPORT BY SECRETARY OF VET-*
25 *ERANS AFFAIRS ON BASIS FOR CALCULA-*

1 TION.—Not later than the date that is 60
2 days after the date on which the administer-
3 ing Secretaries enter into an agreement
4 under subsection (b)(1)(A), the Secretary of
5 Veterans Affairs shall submit a report to
6 Congress and the Comptroller General of the
7 United States explaining the methodology
8 used and basis for calculating the level of ef-
9 fort of the Department of Veterans Affairs
10 under the program and project.

11 “(ii) *REPORT BY COMPTROLLER GEN-*
12 *ERAL.*—Not later than the date that is 180
13 days after the date described in clause (i),
14 the Comptroller General of the United
15 States shall submit to Congress and the ad-
16 ministering Secretaries a report setting
17 forth the Comptroller General’s findings,
18 conclusion, and recommendations with re-
19 spect to the report submitted by the Sec-
20 retary of Veterans Affairs under clause (i).

21 “(iii) *RESPONSE BY SECRETARY OF*
22 *VETERANS AFFAIRS.*—The Secretary of Vet-
23 erans Affairs shall submit to Congress not
24 later than 60 days after the date described
25 in clause (ii) a report setting forth such

1 *Secretary's response to the report submitted*
2 *by the Comptroller General under clause*
3 *(ii).*

4 *“(D) ANNUAL REPORT BY THE COMPTROL-*
5 *LER GENERAL.—Not later than December 31 of*
6 *each year during which the program and dem-*
7 *onstration project is conducted, the Comptroller*
8 *General of the United States shall submit to the*
9 *administering Secretaries and to Congress a re-*
10 *port on the extent, if any, to which the costs of*
11 *the Secretary of Health and Human Services*
12 *under the Medicare Program under this title in-*
13 *creased during the preceding fiscal year as a re-*
14 *sult of the program or demonstration project.*

15 *“(2) REQUIRED RESPONSE IN CASE OF INCREASE*
16 *IN COSTS.—*

17 *“(A) IN GENERAL.—If the administering*
18 *Secretaries find, based on paragraph (1), that*
19 *the expenditures under the Medicare Program*
20 *under this title increased (or are expected to in-*
21 *crease) during a fiscal year because of the pro-*
22 *gram or demonstration project, the administer-*
23 *ing Secretaries shall take such steps as may be*
24 *needed—*

1 “(i) to recoup for the Medicare Pro-
 2 gram the amount of such increase in ex-
 3 penditures; and

4 “(ii) to prevent any such increase in
 5 the future.

6 “(B) STEPS.—Such steps—

7 “(i) under subparagraph (A)(i) shall
 8 include payment of the amount of such in-
 9 creased expenditures by the Secretary of
 10 Veterans Affairs from the current medical
 11 care appropriation for the Department of
 12 Veterans Affairs to the trust funds; and

13 “(ii) under subparagraph (A)(ii) shall
 14 include lowering the amount of payment
 15 under the program or project under sub-
 16 section (g)(1), and may include, in the case
 17 of the demonstration project, suspending or
 18 terminating the project (in whole or in
 19 part).

20 “(i) EVALUATION AND REPORTS.—

21 “(1) INDEPENDENT EVALUATION BY GAO.—

22 “(A) IN GENERAL.—The Comptroller Gen-
 23 eral of the United States shall conduct an eval-
 24 uation of the program and an evaluation of the
 25 demonstration project, and shall submit annual

1 *reports on the program and demonstration*
2 *project to the administering Secretaries and to*
3 *Congress.*

4 “(B) *FIRST REPORT.*—*The first report for*
5 *the program or demonstration project under sub-*
6 *paragraph (A) shall be submitted not later than*
7 *12 months after the date on which the Secretary*
8 *of Veterans Affairs first provides services under*
9 *the program or project, respectively.*

10 “(C) *FINAL REPORT ON DEMONSTRATION*
11 *PROJECT.*—*A final report shall be submitted*
12 *with respect to the demonstration project not*
13 *later than 3½ years after the date of the first re-*
14 *port on the project under subparagraph (B).*

15 “(D) *CONTENTS.*—*The evaluation and re-*
16 *ports under this paragraph for the program or*
17 *demonstration project shall include an assess-*
18 *ment, based on the agreement entered into under*
19 *subsection (b), of the following:*

20 “(i) *Any savings or costs to the Medi-*
21 *care Program under this title resulting from*
22 *the program or project.*

23 “(ii) *The cost to the Department of*
24 *Veterans Affairs of providing care to cat-*
25 *egory A Medicare-eligible veterans under the*

1 *program or to category C Medicare-eligible*
2 *veterans under the demonstration project,*
3 *respectively.*

4 “(iii) *An analysis of how such pro-*
5 *gram or project affects the overall accessibil-*
6 *ity of medical care through the Department*
7 *of Veterans Affairs, and a description of the*
8 *unintended effects (if any) upon the patient*
9 *enrollment system under section 1705 of*
10 *title 38, United States Code.*

11 “(iv) *Compliance by the Department of*
12 *Veterans Affairs with the requirements*
13 *under this title.*

14 “(v) *The number of category A Medi-*
15 *care-eligible veterans or category C Medi-*
16 *care-eligible veterans, respectively, opting to*
17 *participate in the program or project in-*
18 *stead of receiving health benefits through*
19 *another health insurance plan (including*
20 *benefits under this title).*

21 “(vi) *A list of the health insurance*
22 *plans and programs that were the primary*
23 *payers for Medicare-eligible veterans during*
24 *the year prior to their participation in the*
25 *program or project, respectively, and the*

1 *distribution of their previous enrollment in*
2 *such plans and programs.*

3 “(vii) *Any impact of the program or*
4 *project, respectively, on private health care*
5 *providers and beneficiaries under this title*
6 *that are not enrolled in the program or*
7 *project.*

8 “(viii) *An assessment of the access to*
9 *care and quality of care for Medicare-eligible*
10 *veterans under the program or project,*
11 *respectively.*

12 “(ix) *An analysis of whether, and in*
13 *what manner, easier access to medical cen-*
14 *ters of the Department of Veterans Affairs*
15 *affects the number of category A Medicare-*
16 *eligible veterans or C Medicare-eligible vet-*
17 *erans, respectively, receiving Medicare*
18 *health care services.*

19 “(x) *Any impact of the program or*
20 *project, respectively, on the access to care*
21 *for category A Medicare-eligible veterans or*
22 *C Medicare-eligible veterans, respectively,*
23 *who did not enroll in the program or*
24 *project and for other individuals entitled to*
25 *benefits under this title.*

1 “(xi) A description of the difficulties
2 (if any) experienced by the Department of
3 Veterans Affairs in managing the program
4 or project, respectively.

5 “(xii) Any additional elements speci-
6 fied in the agreement entered into under
7 subsection (b).

8 “(xiii) Any additional elements that
9 the Comptroller General of the United
10 States determines is appropriate to assess
11 regarding the program or project, respec-
12 tively.

13 “(2) *REPORTS BY SECRETARIES ON PROGRAM*
14 *AND DEMONSTRATION PROJECT WITH RESPECT TO*
15 *MEDICARE-ELIGIBLE VETERANS.—*

16 “(A) *DEMONSTRATION PROJECT.—Not later*
17 *than 6 months after the date of the submission*
18 *of the final report by the Comptroller General of*
19 *the United States on the demonstration project*
20 *under paragraph (1)(C), the administering Sec-*
21 *retaries shall submit to Congress a report con-*
22 *taining their recommendation as to—*

23 “(i) *whether there is a cost to the*
24 *health care program under this title in con-*
25 *ducting the demonstration project;*

1 “(ii) *whether to extend the demonstra-*
2 *tion project or make the project permanent;*
3 *and*

4 “(iii) *whether the terms and conditions*
5 *of the project should otherwise be continued*
6 *(or modified) with respect to Medicare-eligi-*
7 *ble veterans.*

8 “(B) *PROGRAM.—Not later than 6 months*
9 *after the date of the submission of the report by*
10 *the Comptroller General of the United States on*
11 *the third year of the operation of the program,*
12 *the administering Secretaries shall submit to*
13 *Congress a report containing their recommenda-*
14 *tion as to—*

15 “(i) *whether there is a cost to the*
16 *health care program under this title in con-*
17 *ducting the program under this section;*

18 “(ii) *whether to discontinue the pro-*
19 *gram with respect to category A Medicare-*
20 *eligible veterans; and*

21 “(iii) *whether the terms and conditions*
22 *of the program should otherwise be contin-*
23 *ued (or modified) with respect to Medicare-*
24 *eligible veterans.”.*

1 (b) *REPEAL OF PLAN REQUIREMENT.*—Subsection (b)
 2 of section 4015 of the Balanced Budget Act of 1997 (relating
 3 to an implementation plan for Veterans subvention) is re-
 4 pealed.

5 (c) *EFFECTIVENESS CONTINGENT UPON ENACTMENT*
 6 *OF OFFSETTING OUTLAY REDUCTIONS IN VA PROGRAMS*
 7 *THROUGH RESTRICTION OF USE OF TOBACCO PRODUCTS*
 8 *TO QUALIFY FOR SERVICE-CONNECTED ENTITLEMENT.*—
 9 (1) No payment may be made from the Federal Hospital
 10 Insurance Trust Fund or from the Federal Supplementary
 11 Medical Insurance Trust Fund for items or services fur-
 12 nished under the program or demonstration project estab-
 13 lished under section 1897 of Social Security Act, as added
 14 by subsection (a), before the date that the Director of the
 15 Office of Management and Budget determines that—

16 (A) legislation described in paragraph (2) has
 17 been enacted; and

18 (B) the net amount of the reductions in expendi-
 19 tures achieved by reason of such legislation during the
 20 5-fiscal-year period beginning with fiscal year 1999,
 21 that is available to offset the net aggregate increase in
 22 outlays (if any) under the Medicare Program under
 23 title XVIII of such Act, is not less than the estimate
 24 of the amount of such net aggregate increase during
 25 such period.

1 (2) *For purposes of paragraph (1), the legislation de-*
 2 *scribed in this paragraph is legislation that restricts entitle-*
 3 *ment to service-connected compensation under title 38,*
 4 *United States Code, for a disability that is the result of*
 5 *a veteran's use of tobacco products.*

6 (3) *The estimate described in paragraph (1)(B) shall*
 7 *be the estimate made by the Congressional Budget Office*
 8 *and contained in the report of the Committee on Ways and*
 9 *Means of the House of Representatives to accompany H.*
 10 *R. 3828 of the 105th Congress (the Veterans Medicare Access*
 11 *Improvement Act of 1998)), except to the extent that the*
 12 *Director of the Office of Management and Budget finds that*
 13 *the estimate is materially inaccurate.*

14 (d) *REPORT TO CONGRESS ON A METHOD TO INCLUDE*
 15 *THE COSTS OF VETERANS AFFAIRS AND MILITARY FACIL-*
 16 *ITY SERVICES TO MEDICARE-ELIGIBLE BENEFICIARIES IN*
 17 *THE CALCULATION OF MEDICARE+CHOICE PAYMENT*
 18 *RATES.—The Secretary of Health and Human Services*
 19 *shall report to the Congress by not later than January 1,*
 20 *2001, on a method to phase-in the costs of military facility*
 21 *services furnished by the Department of Veterans Affairs or*
 22 *the Department of Defense to Medicare-eligible beneficiaries*
 23 *in the calculation of an area's Medicare+Choice capitation*
 24 *payment. Such report shall include on a county-by-county*
 25 *basis—*

1 (1) *the actual or estimated cost of such services*
2 *to Medicare-eligible beneficiaries;*

3 (2) *the change in Medicare+Choice capitation*
4 *payment rates if such costs are included in the cal-*
5 *ulation of payment rates;*

6 (3) *one or more proposals for the implementation*
7 *of payment adjustments to Medicare+Choice plans in*
8 *counties where the payment rate has been affected due*
9 *to the failure to calculate the cost of such services to*
10 *Medicare-eligible beneficiaries; and*

11 (4) *a system to ensure that when a*
12 *Medicare+Choice enrollee receives covered services*
13 *through a facility of the Department of Veterans Af-*
14 *fairs or the Department of Defense there is an appro-*
15 *priate payment recovery to the Medicare Program.*