

108TH CONGRESS  
1ST SESSION

# H. R. 1309

To amend title 38, United States Code, to provide improved prescription drug benefits for veterans.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 18, 2003

Mr. EVANS (for himself, Mr. RODRIGUEZ, Mr. GUTIERREZ, Mr. FILNER, Ms. CORRINE BROWN of Florida, Ms. BERKLEY, Mr. STRICKLAND, Mr. RYAN of Ohio, Mr. REYES, Mr. MICHAUD, Mr. UDALL of New Mexico, and Ms. HOOLEY of Oregon) introduced the following bill; which was referred to the Committee on Veterans' Affairs, and in addition to the Committees on Energy and Commerce, and Ways and Means, 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

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## A BILL

To amend title 38, United States Code, to provide improved prescription drug benefits for 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.**

4       This Act may be cited as the “Veterans Prescription  
5       Drug Benefits Act of 2003”.

1 **SEC. 2. PRESCRIPTION DRUG BENEFIT FOR VETERANS.**

2 (a) IN GENERAL.—(1) Chapter 17 of title 38, United  
3 States Code, is amended by inserting after section 1722A  
4 the following new section:

5 **“§ 1722B. Prescription drug benefit program for**  
6 **medicare-eligible veterans and Priority 1**  
7 **veterans**

8 “(a) BENEFIT.—The Secretary shall establish a pre-  
9 scription drug benefit program in accordance with this  
10 section. Under the program, the Secretary shall furnish  
11 to veterans who are participants in the program drugs and  
12 medicines ordered on prescription of a duly licensed physi-  
13 cian or other authorized health care professional who is  
14 not an employee of the Department, subject to the pay-  
15 ment of any applicable premium and copayment under this  
16 section.

17 “(b) VETERANS ELIGIBLE FOR THE PRESCRIPTION  
18 DRUG BENEFIT.—The following veterans are eligible to  
19 participate in the prescription drug benefit program under  
20 this section:

21 “(1) Priority 1 veterans.

22 “(2) Medicare-eligible veterans (other than Pri-  
23 ority 1 veterans) who enroll in the program.

24 “(c) ENROLLMENT.—(1) In order for a medicare-eli-  
25 gible veteran who is not a Priority 1 veteran to participate  
26 in the prescription drug benefit program, the veteran must

1 enroll in the program. Such enrollment shall be carried  
2 out in such manner as may be prescribed by the Secretary  
3 by regulation. The status of a veteran as a medicare-eligible  
4 ble veteran shall be verified by the Secretary of Health  
5 and Human Services upon request of the Secretary.

6 “(2) A medicare-eligible veteran who enrolls in the  
7 prescription drug benefit program is not eligible for enrollment  
8 ment in the patient enrollment system under section 1705  
9 of this title. The Secretary shall inform any veteran applying  
10 ing for enrollment under this section that the veteran,  
11 while enrolled in the prescription drug benefit program,  
12 will not be eligible for health care provided by the Secretary.  
13 retary.

14 “(3) Any medicare-eligible veteran who enrolls in the  
15 prescription drug benefit program under this section and  
16 who at the time of such enrollment is enrolled in the patient  
17 tinent enrollment system under section 1705 of this title  
18 shall, upon such enrollment under this section, be automatically  
19 matically disenrolled from that patient enrollment system.

20 “(4) The Secretary shall conduct an annual open enrollment  
21 rollment period during the last two months of each fiscal  
22 year. During that period—

23 “(A) a medicare-eligible veteran who is not a  
24 Priority 1 veteran may enroll in the program under  
25 this section; and

1           “(B) such a veteran previously enrolled under  
2           this section may disenroll.

3           “(5) During the first five fiscal years during which  
4 the prescription drug benefit program under this section  
5 is in effect, the Secretary may limit enrollment as deter-  
6 mined necessary by the Secretary for administrative and  
7 fiscal reasons. All medicare-eligible veterans who apply for  
8 enrollment under this section during the first year that  
9 the program under this section is in effect shall be enrolled  
10 by the end of the fifth such year.

11          “(d) ANNUAL PREMIUM AND COPAYMENTS.—(1) The  
12 Secretary shall by regulation establish an annual premium  
13 amount that must be paid to the United States by a vet-  
14 eran for drugs and medicines furnished under this section  
15 each year before such drugs and medicines are furnished  
16 to that veteran at the expense of the United States that  
17 year.

18          “(2) The Secretary shall by regulation establish an  
19 amount (known as a ‘copayment’) that must be paid to  
20 the United States by a veteran for each 30-day supply of  
21 drugs and medicines furnished under this section. If the  
22 quantity of such drugs and medicines furnished is less  
23 than a 30-day supply, the amount of the copayment  
24 charge may not be reduced.

1       “(3) The Secretary may establish different copay-  
2 ment amounts for prescriptions depending on—

3               “(A) whether they are filled under a generic  
4 drug name or by brand name;

5               “(B) whether or not they are available by mail;  
6 and

7               “(C) whether or not they are on the Depart-  
8 ment’s National Prescription Drug Formulary.

9       “(4) The amount of the copayment charged for any  
10 particular prescription—

11               “(A) may not be less than the amount in effect  
12 under section 1722A of this title for the copayment  
13 for medications furnished by the Department on pre-  
14 scription of Department health-care professionals;  
15 and

16               “(B) subject to subparagraph (A), may not ex-  
17 ceed the cost to the Secretary of furnishing the  
18 drugs or medicine.

19       “(e) DISPOSITION OF RECEIPTS.—(1) Any amount  
20 received under subsection (d) from a Priority 1 veteran  
21 shall be deposited in the Department of Veterans Affairs  
22 Medical Care Collections Fund.

23       “(2) Any amount received under subsection (d) from  
24 a medicare-eligible veteran enrolled in the prescription  
25 drug benefit program under subsection (c) shall be trans-

1 ferred by the Secretary to the Federal Supplementary  
2 Medical Insurance Trust Fund established in section 1841  
3 of the Social Security Act (42 U.S.C. 1395t).

4 “(f) INTERGOVERNMENTAL REIMBURSEMENT OF  
5 COSTS.—(1) The Secretary of Health and Human Serv-  
6 ices shall transfer to the Secretary, from the fund referred  
7 to in subsection (e)(2), amounts to reimburse the costs  
8 to the Department of furnishing drugs and medicine under  
9 the prescription drug benefit program under this section  
10 to medicare-eligible veterans enrolled under subsection (c).

11 Amounts to be included in such costs are the following:

12 “(A) The cost of such drugs and medicines to  
13 the Department.

14 “(B) A reasonable charge for processing, filling,  
15 and dispensing the prescription, including overhead  
16 costs such as labor, equipment, space, and utilities.

17 “(C) Costs of postage, if furnished by mail.

18 “(2) To the extent the Secretary hires new personnel,  
19 purchases new equipment, or obtains additional facilities  
20 to carry out the prescription drug benefit program under  
21 this section, the Secretary shall document those expenses  
22 in charges to the Secretary of Health and Human Services  
23 that incorporate those expenses.

24 “(3) The Secretary of Health and Human Services  
25 shall make transfers of funds under this subsection peri-

1 odically, as agreed upon by the two Secretaries, but not  
2 less often than weekly. Such payments shall be made upon  
3 receipt of a certification from the Secretary of Veterans  
4 Affairs of costs incurred by the Secretary under this sec-  
5 tion for the period with respect to which the certification  
6 is made.

7 “(4) Any amount received under this subsection shall  
8 be deposited in the Department of Veterans Affairs Med-  
9 ical Care Collections Fund.

10 “(5) The Secretary and the Secretary of Health and  
11 Human Services shall enter into an agreement for the  
12 methodology to be used for determining costs of the De-  
13 partment for purposes of this subsection.

14 “(g) NONLIABILITY.—A health care professional may  
15 not be considered to be an agent or employee of the United  
16 States by reason of a prescription of that health care pro-  
17 fessional being furnished by the Secretary under this sec-  
18 tion.

19 “(h) INFORMATION RESOURCES.—(1) The Secretary  
20 shall develop and maintain a database of veterans enrolled  
21 under subsection (c) and of persons who have applied for  
22 such enrollment.

23 “(2) The Secretary shall maintain records of the  
24 costs of the program under this section, including separate

1 costs for Priority 1 veterans and for veterans enrolled  
2 under subsection (c).

3 “(3) Not later than six years after the date of the  
4 enactment of this section, the Secretary shall implement  
5 a computerized patient profile system for participants in  
6 the prescription drug benefit plan under this section. The  
7 patient profile system shall have the capability, for each  
8 participant in the program, of identifying—

9 “(A) known drug interactions;

10 “(B) contraindicated drugs;

11 “(C) available ‘best value’ treatment alter-  
12 natives for prescribed medications; and

13 “(D) patient safety issues.

14 “(i) ANNUAL REPORT TO CONGRESS.—The Secretary  
15 shall submit to Congress an annual report on the oper-  
16 ation of this section for each of the first five years this  
17 section is in effect. Each such report shall include the fol-  
18 lowing:

19 “(1) The number of participants in the pro-  
20 gram during the year covered by the report and, of  
21 that number, the number who are enrolled under  
22 subsection (c), including the number who were new  
23 enrollees during such year.

24 “(2) The number of veterans who have applied  
25 for such enrollment and, as of the end of the year



1 covered by the report, are waiting for such enroll-  
2 ment.

3 “(3) The number of veterans who during the  
4 year covered by the report were disenrolled from the  
5 patient enrollment system under section 1705 of this  
6 title in order to enroll under subsection (c).

7 “(4) The cost to the Department of the pro-  
8 gram under this section during the year covered by  
9 the report.

10 “(5) The amount of funds transferred to the  
11 Secretary during the year covered by the report  
12 under subsection (f).

13 “(6) The amount of resources added during the  
14 year covered by the report to accommodate increased  
15 workloads by reason of this section.

16 “(j) REGULATIONS.—The Secretary shall prescribe  
17 regulations to carry out this section. Such regulations  
18 shall be prescribed in consultation with the Secretary of  
19 Health and Human Services.

20 “(k) DEFINITIONS.—For purposes of this section:

21 “(A) The term ‘medicare-eligible veteran’  
22 means a veteran who is entitled to benefits under  
23 part A of title XVIII of the Social Security Act (42  
24 U.S.C. 1395c et seq.) and who is enrolled under part  
25 B of that title (42 U.S.C. 1395j et seq.).

1           “(B) The term ‘Priority 1 veteran’ means a vet-  
2       eran covered by section 1705(a)(1) of this title.”.

3       (2) The table of sections at the beginning of such  
4 chapter is amended by inserting after the item relating  
5 to section 1722A the following new item:

“1722B. Prescription drug benefit program for medicare-eligible veterans and  
Priority 1 veterans.”.

6       (b) EFFECTIVE DATE.—Section 1722B of title 38,  
7 United States Code, as added by subsection (a), shall take  
8 effect on October 1, 2003. The initial enrollment period  
9 under subsection (c)(4) of such section shall be the period  
10 beginning on August 1, 2004, and ending on September  
11 30, 2004.

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