

108TH CONGRESS
1ST SESSION

S. 1509

To amend title 38, United States Code, to provide a gratuity to veterans, their spouses, and children who contract HIV or AIDS as a result of a blood transfusion relating to a service-connected disability, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 31 (legislative day, JULY 21), 2003

Mr. COLEMAN introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to provide a gratuity to veterans, their spouses, and children who contract HIV or AIDS as a result of a blood transfusion relating to a service-connected disability, 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 “Eric and Brian Simon
5 Act of 2003”.

1 **SEC. 2. GRATUITY FOR VETERANS AND DEPENDENTS WHO**
 2 **CONTRACT HIV OR AIDS FROM BLOOD**
 3 **TRANSFUSIONS RELATING TO SERVICE-CON-**
 4 **NECTED DISABILITIES.**

5 (a) IN GENERAL.—Subchapter IV of chapter 11 of
 6 title 38, United States Code, is amended by inserting after
 7 section 1137 the following new section:

8 **“§ 1138. Gratuity for veterans and dependents who**
 9 **contract HIV or AIDS from blood trans-**
 10 **fusions relating to service-connected dis-**
 11 **abilities**

12 “(a) IN GENERAL.—Except as provided in subsection
 13 (c), the Secretary shall pay a gratuity in the amount of
 14 \$100,000 to each individual described in subsection (b)
 15 who has an HIV infection or is diagnosed with AIDS.

16 “(b) ELIGIBLE INDIVIDUALS.—An individual de-
 17 scribed in this subsection is any individual as follows:

18 “(1) A veteran who—

19 “(A) was treated with HIV contaminated
 20 blood transfusion, HIV contaminated blood
 21 components, HIV contaminated human tissue,
 22 or HIV contaminated organs (other than Anti-
 23 hemophilic Factor) as a result of a service-con-
 24 nected disability; and

25 “(B) can assert through medical evidence
 26 acceptable to the Secretary reasonable certainty

1 of transmission of HIV as a result of such
2 treatment.

3 “(2) A lawful spouse, or former lawful spouse,
4 of a veteran described in paragraph (1) after the
5 time of treatment of such veteran as described in
6 that paragraph who can assert through medical evi-
7 dence acceptable to the Secretary reasonable cer-
8 tainty of transmission of HIV from such veteran.

9 “(3) Each natural child of a veteran described
10 in paragraph (1) conceived after the time of treat-
11 ment of such veteran as described in that paragraph
12 who can assert through medical evidence acceptable
13 to the Secretary reasonable certainty of perinatal
14 transmission of HIV from such veteran.

15 “(c) EXCEPTION.—An individual described in sub-
16 section (b) is not entitled to the payment of a gratuity
17 under subsection (a) if the individual has received a pay-
18 ment under section 102 of the Ricky Ray Hemophilia Re-
19 lief Fund Act of 1998 (42 U.S.C. 300c–22 note) with re-
20 spect to an HIV or AIDS infection.

21 “(d) ACCEPTABLE MEDICAL EVIDENCE.—(1) Except
22 as provided in paragraph (2), medical evidence acceptable
23 to the Secretary under subsection (b) shall include the fol-
24 lowing, as applicable:

25 “(A) Evidence of infection with HIV or AIDS.

1 “(B) In the case of a veteran described in sub-
2 section (b)(1), evidence of the treatment described in
3 subsection (b)(1).

4 “(C) Evidence indicating no prior infection with
5 HIV or AIDS before the treatment described in sub-
6 section (b)(1) that provided the source of infection
7 with HIV or AIDS.

8 “(D) Evidence indicating that infection with
9 HIV or AIDS occurred after the date of the treat-
10 ment described in subsection (b)(1) that provided
11 the source of infection with HIV or AIDS.

12 “(E) In the case of an individual described in
13 paragraph (2) or (3) of subsection (b), evidence of
14 transmission of HIV from a veteran described in
15 paragraph (1) of that subsection.

16 “(F) Such other evidence as the Secretary may
17 require.

18 “(2) The Secretary may waive an applicable require-
19 ment for any evidence specified in paragraph (1) if the
20 Secretary determines that such evidence was destroyed or
21 is otherwise unavailable as a result of circumstances be-
22 yond the control of the individual concerned.

23 “(e) PAYMENT FOR DECEASED INDIVIDUALS.—(1) If
24 an individual entitled to a gratuity under this section is

1 deceased at the time of payment, payment shall be made
2 as follows:

3 “(A) In the case of an individual who is sur-
4 vived by a spouse living at the time of payment, to
5 the surviving spouse.

6 “(B) In the case of an individual whose sur-
7 viving spouse is not living at the time of payment,
8 to the children of the individual living at the time
9 of payment in equal shares.

10 “(C) In the case of an individual not described
11 by paragraph (1) or (2), to the parents of the indi-
12 vidual living at the time of payment in equal shares.

13 “(2) An individual described in paragraph (2) or (3)
14 of subsection (b) who is entitled to a gratuity under sub-
15 section (a) is also entitled to payment under paragraph
16 (1) with respect to a deceased individual.

17 “(3) In this subsection:

18 “(A) The term ‘spouse’, with respect to an indi-
19 vidual described in paragraph (1), means the indi-
20 vidual who was lawfully married to such individual
21 at the time of death.

22 “(B) The term ‘child’ includes a recognized nat-
23 ural child, a stepchild who lived with such individual
24 in a parent-child relationship, and an adopted child.

1 “(C) The term ‘parent’ includes fathers and
2 mothers through adoption.

3 “(f) APPLICATION.—(1) A person seeking payment of
4 a gratuity under subsection (a) shall submit to the Sec-
5 retary an application therefor in such form and containing
6 such information as the Secretary shall require.

7 “(2) If an individual described in subsection (b) dies
8 before submitting an application for a gratuity under sub-
9 section (a), an individual who would be entitled to pay-
10 ment under subsection (e) with respect to such deceased
11 individual may submit an application for the gratuity
12 under paragraph (1).

13 “(g) TREATMENT OF GRATUITY FOR INSURANCE
14 PURPOSES.—(1) A payment under this section shall not
15 be considered as any form of compensation or reimburse-
16 ment for a loss for purposes of imposing liability on the
17 individual receiving the payment, or on the basis of such
18 receipt, to repay any insurance carrier for insurance pay-
19 ments or to repay any person on account of worker’s com-
20 pensation payments.

21 “(2) A payment under this section shall not affect
22 any claim against an insurance carrier with respect to in-
23 surance or against any person with respect to worker’s
24 compensation.

25 “(h) DEFINITIONS.—In this section:

