

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 614

To amend title 38, United States Code, to permit medicare-eligible veterans to receive an out-patient medication benefit, to provide that certain veterans who receive such benefit are not otherwise eligible for medical care and services from the Department of Veterans Affairs, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MARCH 14, 2005

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

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## A BILL

To amend title 38, United States Code, to permit medicare-eligible veterans to receive an out-patient medication benefit, to provide that certain veterans who receive such benefit are not otherwise eligible for medical care and services from the Department of Veterans Affairs, 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 “Veterans Prescription  
5        Drugs Assistance Act”.

1 **SEC. 2. ELIGIBILITY OF MEDICARE-ELIGIBLE VETERANS**  
2 **FOR OUT-PATIENT MEDICATION BENEFIT.**

3 (a) RESTATEMENT OF CURRENT LAW ON DRUGS  
4 AND MEDICATIONS AND PROVISION OF OUT-PATIENT  
5 MEDICATION BENEFIT.—Chapter 17 of title 38, United  
6 States Code, is amended by inserting after section 1710B  
7 the following new section:

8 **“§ 1710C. Drugs and medications; vaccines**

9 “(a)(1) The Secretary shall furnish to each veteran  
10 who is receiving additional compensation or allowance  
11 under chapter 11 of this title, or increased pension as a  
12 veteran of a period of war, by reason of being permanently  
13 housebound or in need of regular aid and attendance, such  
14 drugs and medicines as may be ordered on prescription  
15 of a duly licensed physician as specific therapy in the  
16 treatment of any illness or injury suffered by such veteran.

17 “(2) The Secretary shall continue to furnish such  
18 drugs and medicines ordered under paragraph (1) to any  
19 such veteran in need of regular aid and attendance whose  
20 pension payments have been discontinued solely because  
21 such veteran’s annual income is greater than the applica-  
22 ble maximum annual income limitation, but only so long  
23 as such veteran’s annual income does not exceed such  
24 maximum annual income limitation by more than \$1,000.

25 “(b)(1) Any medicare-eligible veteran may elect to be  
26 furnished by the Secretary, on an out-patient basis, such

1 drugs and medicines as may be ordered on prescription  
2 of a duly licensed physician as specific therapy in the  
3 treatment of any illness or injury suffered by such veteran.

4 “(2) In this subsection, the term ‘medicare-eligible  
5 veteran’ means any veteran who—

6 “(A) is entitled to or enrolled in hospital insur-  
7 ance benefits under part A of title XVIII of the So-  
8 cial Security Act (42 U.S.C. 1395 et seq.); or

9 “(B) is enrolled in the supplementary medical  
10 insurance program under part B of such title (42  
11 U.S.C. 1395j et seq.).

12 “(3) The Secretary shall furnish to any veteran who  
13 makes an election under paragraph (1), on an out-patient  
14 basis, such drugs and medicines as may be ordered on pre-  
15 scription of a duly licensed physician as specific therapy  
16 in the treatment of any illness or injury suffered by such  
17 veteran.

18 “(4)(A) Notwithstanding any other provision of law  
19 and except as provided in subparagraph (B), a veteran  
20 who makes an election under paragraph (1) shall not be  
21 eligible for care and services under this chapter during the  
22 year covered by the election.

23 “(B) Subparagraph (A) shall not apply with respect  
24 to any veteran who has a compensable service-connected  
25 disability.

1       “(5) The furnishing of drugs and medicines under  
2 this subsection shall be subject to the provisions of section  
3 1722A(b) of this title.

4       “(6)(A) An election under paragraph (1) shall be for  
5 a calendar year, and shall be irrevocable for the year cov-  
6 ered by such election. An election may be renewed.

7       “(B) The Secretary shall prescribe the form, manner,  
8 and timing of an election.

9       “(7) Before permitting a veteran to make an election  
10 under paragraph (1), the Secretary shall provide the vet-  
11 eran such educational materials and other information on  
12 the furnishing and receipt of drugs and medicines under  
13 this subsection as the Secretary considers appropriate to  
14 inform the veteran of the benefits and costs of being fur-  
15 nished drugs and medicines under this subsection, includ-  
16 ing materials and information on the consequences of  
17 making an election under paragraph (1) and on the fees,  
18 copayments, or other amounts required under section  
19 1722A(b) of this title for drugs and medicines furnished  
20 under this subsection.

21       “(c)(1) In order to assist the Secretary of Health and  
22 Human Services in carrying out national immunization  
23 programs under other provisions of law, the Secretary may  
24 authorize the administration of immunizations to eligible  
25 veterans who voluntarily request such immunizations in

1 connection with the provision of care for a disability under  
2 this chapter in any Department health care facility.

3 “(2) Any immunization under paragraph (1) shall be  
4 made using vaccine furnished by the Secretary of Health  
5 and Human Services at no cost to the Department. For  
6 such purpose, notwithstanding any other provision of law,  
7 the Secretary of Health and Human Services may provide  
8 such vaccine to the Department at no cost.

9 “(3) Section 7316 of this title shall apply to claims  
10 alleging negligence or malpractice on the part of Depart-  
11 ment personnel granted immunity under such section.”.

12 (b) COPAYMENT REQUIREMENTS.—

13 (1) IN GENERAL.—Section 1722A of such title  
14 is amended—

15 (A) in subsection (a)(1), by inserting  
16 “(other than a veteran covered by subsection  
17 (b))” after “require a veteran”;

18 (B) by redesignating subsections (b), (c),  
19 and (d), as subsections (e), (d), and (e), respec-  
20 tively;

21 (C) by inserting after subsection (a) the  
22 following new subsection (b):

23 “(b)(1) In the case of a veteran who is furnished  
24 medications on an out-patient basis under section  
25 1710C(b) of this title, the Secretary shall require the vet-

1 eran to pay, at the election of the Secretary, one or more  
2 of the following:

3           “(A) An annual enrollment fee in an amount  
4           determined appropriate by the Secretary.

5           “(B) A copayment for each 30-day supply of  
6           such medications in an amount determined appro-  
7           priate by the Secretary.

8           “(C) An amount equal to the cost to the Sec-  
9           retary of such medications, as determined by the  
10          Secretary.

11          “(2)(A) In determining the amounts to be paid by  
12 a veteran under paragraph (1), and the basis of payment  
13 under one or more subparagraphs of that paragraph, the  
14 Secretary shall ensure that the total amount paid by vet-  
15 erans for medications under that paragraph in a year is  
16 not less than the costs of the Department in furnishing  
17 medications to veterans under section 1710C(b) of this  
18 title during that year, including the cost of purchasing and  
19 furnishing medications, and other costs of administering  
20 that section.

21          “(B) The Secretary shall take appropriate actions to  
22 ensure, to the maximum extent practicable, that amounts  
23 paid by veterans under paragraph (1) in a year are equal  
24 to the costs of the Department referred to in subpara-  
25 graph (A) in that year.

1 “(3) In determining amounts under paragraph (1),  
2 the Secretary may take into account the following:

3 “(A) Whether or not the medications furnished  
4 are generic medications or brand name medications.

5 “(B) Whether or not the medications are fur-  
6 nished by mail.

7 “(C) Whether or not the medications furnished  
8 are listed on the National Prescription Drug For-  
9 mulary of the Department.

10 “(D) Any other matters the Secretary considers  
11 appropriate.

12 “(4) The Secretary may from time to time adjust any  
13 amount determined by the Secretary under paragraph (1),  
14 as previously adjusted under this paragraph, in order to  
15 meet the purpose specified in paragraph (2).”; and

16 (D) in subsection (d), as so redesignated—

17 (i) by striking “subsection (a)” and  
18 inserting “subsections (a) and (b)”; and

19 (ii) by striking “subsection (b)” and  
20 inserting “subsection (c)”.

21 (2) DEPOSIT OF COLLECTIONS IN MEDICAL  
22 CARE COLLECTIONS FUND.—Paragraph (4) of sec-  
23 tion 1729A(b) of such title is amended to read as  
24 follows:

1           “(4) Subsection (a) or (b) of section 1722A of  
2           this title.”.

3           (c) CONFORMING AMENDMENTS.—(1) Section 1707  
4           of such title is amended by adding at the end the following  
5           new subsection:

6           “(c) Notwithstanding any other provision of law, a  
7           veteran who makes an election authorized by section  
8           1710C(b) of this title (other than a veteran covered by  
9           paragraph (4)(B) of that section) shall not, for the period  
10          of such election, be eligible for care and services under  
11          this chapter, except as provided in that section.”.

12          (2) Section 1712 of such title is amended by striking  
13          subsections (d) and (e).

14          (d) CLERICAL AMENDMENTS.—(1) The heading for  
15          section 1712 of such title is amended to read as follows:

16          “**§ 1712. Dental care**”.

17          (2) The table of sections at the beginning of chapter  
18          17 of such title is amended—

19                 (A) by inserting after the item relating to sec-  
20                 tion 1710B the following new item:

“1710C. Drugs and medications; vaccines.”;

21                 and

22                 (B) by striking the item relating to section  
23                 1712 and inserting the following new item:

“1712. Dental care.”.