

111TH CONGRESS
1ST SESSION

H. R. 1004

To amend title 38, United States Code, to provide an enhanced funding process to ensure an adequate level of funding for veterans health care programs of the Department of Veterans Affairs, to establish standards of access to care for veterans seeking health care from the Department of Veterans Affairs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 11, 2009

Mr. SMITH of New Jersey introduced the following bill; which was referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to provide an enhanced funding process to ensure an adequate level of funding for veterans health care programs of the Department of Veterans Affairs, to establish standards of access to care for veterans seeking health care 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 Health Care
5 Full Funding Act”.

1 **SEC. 2. ENHANCED PROCESS FOR FUNDING VETERANS**
2 **HEALTH CARE PROGRAMS.**

3 (a) IN GENERAL.—(1) Chapter 3 of title 38, United
4 States Code, is amended by adding at the end the fol-
5 lowing new section:

6 **“§ 323. Enhanced funding process for veterans health**
7 **care**

8 “(a) In the President’s budget for each fiscal year
9 transmitted under section 1105 of title 31, amounts shall
10 be requested for veterans health care programs in accord-
11 ance with this section. Amounts appropriated for veterans
12 health care programs shall be available for obligation for
13 a period of two consecutive fiscal years.

14 “(b)(1) For each fiscal year (beginning with fiscal
15 year 2010), the Veterans Health Care Funding Review
16 Board shall determine the level of funding needed for vet-
17 erans health care programs for that fiscal year and the
18 next fiscal year. The Board shall make such determina-
19 tion, and shall publish such determination in the Federal
20 Register, not later than November 1 of the year preceding
21 the year in which the budget for such fiscal year is trans-
22 mitted to Congress.

23 “(2) In making any such determination under para-
24 graph (1), the Board shall take into consideration the
25 most recent information relating to economic assumptions

1 provided to the Board by the Director of the Office of
2 Management and Budget pursuant to subsection (f)(4)(b).

3 “(c) The amount determined under subsection (b) for
4 any two-fiscal-year period is the amount needed to be ap-
5 propriated to the Department for that two-fiscal-year pe-
6 riod for veterans health care programs. The President
7 shall include the full amount so determined in the budget
8 transmitted to Congress under section 1105 of title 31 for
9 the first fiscal year in such two-year period and shall in-
10 clude the amount of the second fiscal year as a budget
11 forecast year.

12 “(d)(1) The Board shall make its determination of
13 the level of funding needed for veterans health care pro-
14 grams for any two-fiscal-year period under subsection (b)
15 based upon an annual review of those programs and of
16 veterans health care needs.

17 “(2) The Board shall ensure that its determination
18 of the level of funding needed for veterans health care pro-
19 grams for any period is in an amount sufficient to provide
20 for—

21 “(A) the health care needs of veterans esti-
22 mated to be enrolled in the Department health care
23 system under section 1705(a) of this title (other
24 than veterans described in paragraph (8) of such
25 section);

1 “(B) the health care needs of veterans with
2 service-connected disabilities who are not required to
3 enroll in such health care system;

4 “(C) timely access to health care under stand-
5 ards for access prescribed under section 1703(e)(1)
6 of this title;

7 “(D) maintenance of capacities of Department
8 nursing home facilities as required by section
9 1710B(b) of this title and of specialized programs as
10 required by section 1706(b)(1) of this title;

11 “(E) the health care needs of persons eligible
12 for benefits under chapter 17 of this title based
13 upon subchapter VIII of that chapter;

14 “(F) the necessary maintenance, improvement,
15 upgrading, expanding, repairing, and replacing of
16 major and minor medical facilities, capital equip-
17 ment, and systems to ensure that health care facili-
18 ties of the Department are adequate for the pur-
19 poses of programs and benefits authorized for the
20 care of veterans under chapter 17 of this title; and

21 “(G) unanticipated requirements, including—

22 “(i) changes in benefits;

23 “(ii) changes in beneficiaries;

24 “(iii) changes in economic conditions or as-
25 sumptions; and

1 “(iv) such other factors as the Board con-
2 siders appropriate.

3 “(3) Each such review under paragraph (1) shall con-
4 sider—

5 “(A) demographic information;

6 “(B) utilization and cost trends for veterans en-
7 rolled under section 1705 of this title and other De-
8 partment health-care beneficiaries;

9 “(C) requirements for support of other core
10 missions of the Department related to health care;

11 “(D) the degree of efficiency (or the lack of ef-
12 ficiency) by which the Secretary actually delivers
13 health care services to veterans; and

14 “(E) such other factors as the Board considers
15 appropriate.

16 “(4)(A) The Board shall submit to Congress an an-
17 nual report, not later than the date on which the President
18 transmits the budget to Congress under section 1105 of
19 title 31 each year, on its most recent determination under
20 subsection (b) and its most recent review under paragraph
21 (1).

22 “(B) The report shall include the following:

23 “(i) A statement of the amount determined for
24 each of the two fiscal years covered by such deter-
25 mination under subsection (b).

1 “(ii) A description of the economic assumptions
2 and other assumptions made by the Board in mak-
3 ing such determination and how that determination
4 was developed.

5 “(iii) Any recommendations to Congress or the
6 Secretary that the Board considers appropriate con-
7 cerning the means and methods for the Secretary to
8 achieve optimal efficiencies or savings in delivering
9 health care to veterans.

10 “(5) Following the submission of the report under
11 paragraph (4) each year, the Board shall review and re-
12 consider the matters contained in the report and shall,
13 during the five-day period ending on May 1 of that year,
14 submit to Congress a report updating the matters in the
15 report submitted under paragraph (4). The Board shall
16 include in that report any revision it considers appropriate
17 to its most recent determination under subsection (b), to-
18 gether with the reasons for any such revision.

19 “(e) For purposes of this section, the term ‘veterans
20 health care programs’ means programs, functions, and ac-
21 tivities of the Veterans Health Administration other
22 than—

23 “(1) medical and prosthetic research; and

24 “(2) grants under subchapter III of chapter 81
25 of this title.

1 “(f)(1) There is established in the Department of
2 Veterans Affairs a Veterans Health Care Funding Review
3 Board. The Board shall consist of three members who
4 shall be appointed by the Secretary. Persons appointed to
5 the Board shall have professional backgrounds and experi-
6 ence in health care policy analysis, health care statistics,
7 health care insurance, or health care economics or have
8 similar qualifications considered suitable by the Secretary.

9 “(2)(A) Except as provided in subparagraph (B), the
10 members of the Board shall serve for a term of 15 years,
11 except that a member of the Board appointed to fill a va-
12 cancy occurring before the end of the term for which the
13 member’s predecessor was appointed shall only serve until
14 the end of such term. A member may serve after the end
15 of the term of the member until the successor of that
16 member has taken office. A member of the Board may
17 be removed by the Secretary for misconduct or failure to
18 perform functions vested in the Board, and for no other
19 reason.

20 “(B) Of the members of the Board who are first ap-
21 pointed under this paragraph, one each shall be appointed
22 for terms ending 5, 10, and 15 years, respectively, after
23 the date of appointment, as designated by the Secretary
24 at the time of appointment.

1 “(3) A member of the Board who is not otherwise
2 an employee of the United States is entitled to receive pay
3 at the daily equivalent of the annual rate of basic pay of
4 the highest rate of basic pay under the General Schedule
5 of subchapter III of chapter 53 of title 5, for each day
6 the member is engaged in the performance of duties vested
7 in the Board, and is entitled to travel expenses, including
8 a per diem allowance, in accordance with section 5703 of
9 title 5.

10 “(4)(A) The Secretary shall furnish the Board all pa-
11 pers, records, information, and other materials it requires
12 in order to carry out its functions under this section.

13 “(B) The Director of the Office of Management and
14 Budget shall furnish to the Board complete information
15 on the economic assumptions (including assumptions as
16 to inflation, unemployment, revenues and expenses, and
17 energy costs) that inform or guide the President’s overall
18 budgetary presentation to Congress, including those as-
19 sumptions that would be expected to particularly affect
20 health care costs in the Department, or the cost of care
21 to veterans.

22 “(5) Funds for the expenses of the Board for any
23 fiscal year shall be provided from amounts available for
24 that fiscal year for veterans health care programs. The

1 Board shall include consideration of its own budget re-
2 quirements in determinations under subsection (b).”.

3 (2) The table of sections at the beginning of such
4 chapter is amended by adding at the end the following
5 new item:

“323. Enhanced funding process for veterans health care.”.

6 (b) EFFECTIVE DATE.—Section 323 of title 38,
7 United States Code, as added by subsection (a), shall take
8 effect on January 1, 2008.

9 (c) REPEAL OF CONSTRUCTION AUTHORIZATION RE-
10 QUIREMENT.—Effective October 1, 2008, subsections (a),
11 (b), (c), and (d) of section 8104 of title 38, United States
12 Code, are repealed.

13 (d) APPOINTMENT OF INITIAL MEMBERS OF
14 BOARD.—The initial appointment of the members of the
15 Board established under subsection (f) of section 323 of
16 title 38, United States Code, as added by subsection (a),
17 shall be completed not later than 90 days after the date
18 of the enactment of this Act.

19 (e) INITIAL FUNDING FOR BOARD.—For fiscal year
20 2008, the Secretary of Veterans Affairs shall provide
21 amounts needed for the operation of the Board established
22 under subsection (f) of section 321 of title 38, United
23 States Code, as added by subsection (a), in a total amount
24 not to exceed \$2,000,000, from amounts appropriated to

1 the Department of Veterans Affairs for that fiscal year
2 for Medical Care.

3 **SEC. 3. ACCESS TO CARE STANDARDS.**

4 (a) REQUIRED STANDARD FOR ACCESS TO CARE.—
5 Section 1703 of title 38, United States Code, is amended
6 by adding at the end the following new subsection:

7 “(e)(1) The following are the standards for access to
8 care for the Department:

9 “(A) For a veteran seeking primary care, the
10 standard for access is 30 days, determined from the
11 date on which the veteran contacts the Department
12 seeking an appointment until the date on which a
13 visit with a primary care provider is completed.

14 “(B) For a veteran seeking specialized care, the
15 standard for access is 30 days, determined from the
16 date on which the veteran is referred for specialty
17 care by a primary care provider until the date on
18 which a visit with an appropriate specialty primary
19 care provider is completed.

20 “(2) The Secretary shall develop and disseminate an
21 appropriate standard of waiting time, determined from the
22 time at which the veteran’s visit is scheduled until the vet-
23 eran is seen by the provider. The Secretary shall periodi-
24 cally review performance of Department facilities com-
25 pared to that standard. The Secretary shall annually re-

1 port to the Committees on Veterans' Affairs of the Senate
2 and House of Representatives an assessment of the De-
3 partment's performance against that standard.

4 “(3) In a case in which the Secretary is unable to
5 meet the standard for access to care, the Secretary shall
6 use the authority of subsection (a) to furnish health care
7 and services for that veteran in a non-Department facil-
8 ity.”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 subsection (a) shall take effect on the first day of the first
11 month beginning more than six months after the date of
12 the enactment of this Act.

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