

114TH CONGRESS
2D SESSION

H. R. 3989

IN THE SENATE OF THE UNITED STATES

MAY 24, 2016

Received; read twice and referred to the Committee on Veterans' Affairs

AN ACT

To amend title 38, United States Code, to improve the process for determining the eligibility of caregivers of veterans to certain benefits administered by the Secretary 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Support Our Military
3 Caregivers Act”.

4 **SEC. 2. EXTERNAL CLINICAL REVIEW OF DENIED APPLICA-**
5 **TIONS BY CAREGIVERS OF VETERANS.**

6 (a) IN GENERAL.—Section 1720G of title 38, United
7 States Code, is amended—

8 (1) by redesignating subsections (d) and (e) as
9 subsections (e) and (f), respectively; and

10 (2) by inserting after subsection (c) the fol-
11 lowing new subsection (d):

12 “(d) EXTERNAL CLINICAL REVIEW OF APPLICA-
13 TIONS.—(1) Using amounts otherwise appropriated to
14 carry out this section, an individual may elect to have an
15 independent contractor described in paragraph (2) per-
16 form an external clinical review of any of the following:

17 “(A) The denial by the Secretary of an applica-
18 tion by an individual to be a caregiver or family
19 caregiver eligible for the program of comprehensive
20 assistance administered by the Secretary pursuant to
21 this section.

22 “(B) With respect to such an application that
23 the Secretary has granted, a determination by the
24 Secretary of the level or amount of personal care
25 services that a veteran requires.

1 “(C) A request by a caregiver or family care-
2 giver for a reconsideration of the level or amount of
3 personal care services that a veteran requires based
4 on changes to the health or abilities of the veteran
5 occurring since the Secretary granted such an appli-
6 cation.

7 “(D) The revocation by the Secretary of assist-
8 ance administered by the Secretary pursuant to this
9 section.

10 “(2) An independent contractor described in this
11 paragraph is an independent contractor that—

12 “(A) is awarded a contract by the Secretary to
13 carry out this section pursuant to full and open com-
14 petition under the Federal Acquisition Regulation;

15 “(B) has no direct or indirect financial relation-
16 ship with any non-Department provider of services
17 to caregivers and family caregivers pursuant to this
18 title;

19 “(C) has not otherwise conducted an external
20 clinical review of benefits administered by the Sec-
21 retary pursuant to this title other than this section;

22 “(D) has sufficient training and expertise in
23 medical science and other appropriate health, edu-
24 cational, and vocational training and legal matters

1 to perform the reviews described in paragraph (1);
2 and

3 “(E) employs a panel of physicians or other ap-
4 propriate health care professionals who do not pro-
5 vide health care to the individual who makes an elec-
6 tion under paragraph (1).

7 “(3) Each external clinical review conducted pursu-
8 ant to paragraph (1) shall—

9 “(A) be based on applicable information in-
10 cluded in the application for assistance described in
11 such paragraph, including clinical expertise, medical,
12 technical, and scientific evidence;

13 “(B) include an opportunity for both the indi-
14 vidual who elects for such review and, to the extent
15 possible, the veteran for whom care is being provided
16 to offer opinions and supporting data as to the level
17 of care required; and

18 “(C) include a review of the initial clinical re-
19 view of such veteran and any other review made by
20 the Secretary.

21 “(4) In carrying out the external clinical reviews pur-
22 suant to paragraph (1), the independent contractor shall,
23 as determined appropriate by the Secretary—

24 “(A) collect and maintain information required;
25 and

1 “(B) share such information with the Secretary.

2 “(5) The Secretary shall take into account, but is not
3 bound by, any determination made by the independent
4 contractor pursuant to paragraph (1) in determining the
5 final decision with respect to the application for assist-
6 ance. The Secretary may make a final decision that is con-
7 trary to such a determination if the Secretary includes
8 clinically supported documentation with the decision.

9 “(6) The Secretary shall ensure that each external
10 clinical review conducted by the independent contractor
11 pursuant to paragraph (1) is completed and the Depart-
12 ment is notified in writing of the results of the review by
13 not later than 120 days after the date on which the indi-
14 vidual makes the election under such paragraph. Not later
15 than 30 days after the delivery of the determination rec-
16 ommended by the independent contractors, the Secretary
17 shall ensure that the veteran and the individual making
18 the election under such paragraph is notified in writing
19 of the final decision of the Secretary. In accordance with
20 paragraph (5), such notification shall include an expla-
21 nation of the recommended decision, a discussion of the
22 facts and applicable regulations, and an explanation of the
23 clinical rationale for the final decision.

24 “(7) The Secretary shall notify individuals who sub-
25 mit an application to be a caregiver or family caregiver

1 eligible for the program of comprehensive assistance ad-
2 ministered by the Secretary pursuant to this section of the
3 ability of the individual to make an election under para-
4 graph (1).

5 “(8) Nothing in this subsection may be construed to
6 affect claims made by veterans for disability compensation
7 under chapter 11 of this title.”.

8 (b) APPLICATION.—The amendments made by sub-
9 section (a) shall apply with respect to elections under sub-
10 section (d) of section 1720G of title 38, United States
11 Code, as added by subsection (a)(2), that are for applica-
12 tions or revocations for assistance for caregivers and fam-
13 ily caregivers pursuant to such section for which the Sec-
14 retary of Veterans Affairs has not made a final decision
15 as of the date of the enactment of this Act.

16 **SEC. 3. PROCESS TO DETERMINE ELIGIBILITY FOR CARE-**
17 **GIVERS OF VETERANS.**

18 (a) DIRECTIVES.—The Secretary of Veterans Affairs
19 shall issue directives regarding the policies, procedures,
20 and operational requirements for the Family Caregiver
21 Program, including with respect to determining the eligi-
22 bility of an individual to participate in the Family Care-
23 giver Program.

24 (b) GAO REPORT.—The Comptroller General of the
25 United States shall submit to the Committees on Vet-

1 erans’ Affairs of the House of Representatives and the
2 Senate a report on the processes of the Secretary of Vet-
3 erans Affairs with respect to—

4 (1) determining the eligibility of an individual
5 to participate in the Family Caregiver Program;

6 (2) adjudicating appeals to such determina-
7 tions; and

8 (3) the periodic eligibility reevaluation of an in-
9 dividual participating in such program and the com-
10 munication of any changes as a result of such re-
11 evaluations to the veteran and caregiver.

12 (c) FAMILY CAREGIVER PROGRAM DEFINED.—In
13 this section, the term “Family Caregiver Program” either
14 the program of comprehensive assistance for family care-
15 givers or the program of general caregiver support services
16 established by section 1720G of title 38, United States
17 Code.

18 **SEC. 4. MODIFICATION TO LIMITATION ON AWARDS AND**
19 **BONUSES.**

20 Section 705 of the Veterans Access, Choice, and Ac-
21 countability Act of 2014 (Public Law 113–146; 38 U.S.C.
22 703 note) is amended to read as follows:

4 “The Secretary of Veterans Affairs shall ensure that
5 the aggregate amount of awards and bonuses paid by the
6 Secretary in a fiscal year under chapter 45 or 53 of title
7 5, United States Code, or any other awards or bonuses
8 authorized under such title or title 38, United States
9 Code, does not exceed the following amounts:

10 “(1) With respect to each of fiscal years 2017
11 through 2021, \$230,000,000.

12 “(2) With respect to each of fiscal years 2022
13 through 2024, \$360,000,000.”.

Passed the House of Representatives May 23, 2016.

Attest: KAREN L. HAAS,
Clerk.