

115TH CONGRESS  
1ST SESSION

# S. 2239

To amend the Veterans Access, Choice, and Accountability Act of 2014 to improve the scheduling of appointments, the accountability of third party administrators, and payment to providers under such Act, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

DECEMBER 14, 2017

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

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## A BILL

To amend the Veterans Access, Choice, and Accountability Act of 2014 to improve the scheduling of appointments, the accountability of third party administrators, and payment to providers under such Act, 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 Deserve Bet-  
5 ter Act”.

1 **SEC. 2. PAYMENT TO PROVIDERS UNDER VETERANS**  
2 **CHOICE PROGRAM, SCHEDULING OF AP-**  
3 **POINTMENTS, AND ACCOUNTABILITY OF**  
4 **THIRD PARTY ADMINISTRATORS UNDER**  
5 **SUCH PROGRAM.**

6 Section 101 of the Veterans Access, Choice, and Ac-  
7 countability Act of 2014 (Public Law 113–146; 38 U.S.C.  
8 1701 note) is amended by adding at the end the following  
9 new subsections:

10 “(u) **PROMPT PAYMENT.**—

11 “(1) **PAYMENT OF CLAIMS.**—

12 “(A) **IN GENERAL.**—Notwithstanding any  
13 other provision of this section or any other pro-  
14 vision of law, the Secretary shall pay for hos-  
15 pital care or medical services furnished by a  
16 health care entity or provider under this section  
17 within 45 calendar days upon receipt of a clean  
18 paper claim or 30 calendar days upon receipt of  
19 a clean electronic claim.

20 “(B) **DENIAL.**—If a claim is denied, the  
21 Secretary shall, within 45 calendar days of de-  
22 nial for a paper claim and 30 calendar days of  
23 denial for an electronic claim, notify the health  
24 care entity or provider of the reason for denying  
25 the claim and what, if any, additional informa-  
26 tion is required to process the claim.

1           “(C) ADDITIONAL INFORMATION.—Upon  
2           the receipt of additional information described  
3           in subparagraph (B) with respect to a denied  
4           claim, the Secretary shall ensure that the claim  
5           is paid, denied, or otherwise adjudicated within  
6           30 calendar days from the receipt of the re-  
7           quested information.

8           “(D) INVOICE BASIS.—This subsection  
9           shall only apply to payments made on an in-  
10          voice basis and shall not apply to capitation or  
11          other forms of periodic payment.

12          “(2) SUBMITTAL OF CLAIMS.—A health care  
13          entity or provider that furnishes hospital care or  
14          medical services under this section shall submit to  
15          the Secretary a claim for payment for furnishing the  
16          hospital care or medical services not later than 180  
17          days after the date on which the health care entity  
18          or provider furnished the hospital care or medical  
19          services.

20          “(3) FRAUDULENT CLAIMS.—

21                 “(A) IN GENERAL.—Sections 3729  
22                 through 3733 of title 31, United States Code,  
23                 shall apply to fraudulent claims for payment  
24                 submitted to the Secretary by a health care en-  
25                 tity or provider under this section.

“(B) PRECLUSION OF CERTAIN PROVIDERS.—Pursuant to regulations prescribed by the Secretary, the Secretary shall bar a health care entity or provider from furnishing hospital care or medical services under this section if the Secretary determines the health care entity or provider has submitted to the Secretary fraudulent health care claims for payment by the Secretary.

“(4) OVERDUE CLAIMS.—

“(A) IN GENERAL.—Any claim that has not been denied with notice, made pending with notice, or paid to a health care entity or provider by the Secretary shall be overdue if the notice or payment is not received by the health care entity or provider within the time periods specified in paragraph (1).

“(B) INTEREST.—

“(i) IN GENERAL.—If a claim is overdue under this paragraph, the Secretary may, under the requirements established by paragraph (1) and consistent with the provisions of chapter 39 of title 31, United States Code (commonly referred to as the

1 ‘Prompt Payment Act’), require that inter-  
2 est be paid on clean claims.

3 “(ii) COMPUTATION.—Interest paid  
4 under clause (i) shall be computed at the  
5 rate of interest established by the Sec-  
6 retary of the Treasury under section 3902  
7 of title 31, United States Code, and pub-  
8 lished in the Federal Register.

9 “(C) REPORT.—Not less frequently than  
10 annually, the Secretary shall submit to Con-  
11 gress a report on payment of overdue claims  
12 under this paragraph, disaggregated by paper  
13 and electronic claims, that includes the fol-  
14 lowing:

15 “(i) The amount paid in overdue  
16 claims under this paragraph, disaggregated  
17 by the amount of the overdue claim and  
18 the amount of interest paid on such over-  
19 due claim.

20 “(ii) The number of such overdue  
21 claims and the average number of days  
22 late each claim was paid, disaggregated by  
23 facility of the Department and Veterans  
24 Integrated Service Network region.

25 “(5) OVERPAYMENT.—

1           “(A) IN GENERAL.—Except as provided in  
2           subparagraph (B), the Secretary shall deduct  
3           the amount of any overpayment from payments  
4           due a health care entity or provider under this  
5           section.

6           “(B) NOTIFICATION OF RIGHT TO DIS-  
7           PUTE.—

8           “(i) IN GENERAL.—Deductions may  
9           not be made under this paragraph unless  
10          the Secretary has made reasonable efforts  
11          to notify a health care entity or provider of  
12          the right to dispute the existence or  
13          amount of such indebtedness and the right  
14          to request a compromise of such indebted-  
15          ness.

16          “(ii) DETERMINATION.—The Sec-  
17          retary shall make a determination with re-  
18          spect to any dispute or request under  
19          clause (i) prior to deducting any overpay-  
20          ment under this paragraph unless the time  
21          required to make such a determination be-  
22          fore making any deductions would jeop-  
23          ardize the Secretary’s ability to recover the  
24          full amount of such indebtedness.

1           “(6) INFORMATION AND DOCUMENTATION RE-  
2       QUIRED.—

3           “(A) IN GENERAL.—The Secretary shall  
4       provide to all health care entities or providers  
5       furnishing hospital care or medical services  
6       under this section a list of information and doc-  
7       umentation that is required to establish a clean  
8       claim under this subsection.

9           “(B) CONSULTATION WITH HEALTH CARE  
10      ENTITIES.—The Secretary shall consult with  
11      entities in the health care industry, in the pub-  
12      lic and private sector, to determine the informa-  
13      tion and documentation to include in the list  
14      under subparagraph (A).

15          “(C) NOTIFICATION OF MODIFICATIONS.—  
16      If the Secretary modifies the information and  
17      documentation included in the list under sub-  
18      paragraph (A), the Secretary shall notify all  
19      health care entities or providers described in  
20      such subparagraph not later than 30 days be-  
21      fore such modifications take effect.

22          “(7) PROCESSING OF CLAIMS.—In processing a  
23      claim for compensation for hospital care or medical  
24      services furnished by a health care entity or provider  
25      under this section, the Secretary shall act through—

1           “(A) a non-Department entity that has en-  
 2           tered into an agreement with the Secretary  
 3           under this section; or

4           “(B) a non-Department entity that special-  
 5           izes in processing such claims for other Federal  
 6           agency health care systems.

7           “(8) TREATMENT OF CERTAIN OUTSTANDING  
 8           CLAIMS.—

9           “(A) REPORT.—Not later than 30 days  
 10          after the date of the enactment of the Veterans  
 11          Deserve Better Act, the Secretary shall submit  
 12          to the appropriate committees of Congress a re-  
 13          port on the number of claims for payment for  
 14          hospital care and medical services furnished to  
 15          eligible veterans under this section that are out-  
 16          standing as of the date of the submittal of the  
 17          report.

18          “(B) OUTREACH TO PROVIDERS.—Not-  
 19          withstanding any other provision of this section,  
 20          with respect to each health care entity or pro-  
 21          vider that has an outstanding claim for pay-  
 22          ment for hospital care and medical services fur-  
 23          nished to eligible veterans under this section as  
 24          of the date of the enactment of the Veterans  
 25          Deserve Better Act, not later than 45 days

1 after such date of enactment, the Secretary  
2 shall either pay the claim, deny the claim, or re-  
3 quest additional information regarding the  
4 claim.

5 “(9) DEFINITIONS.—In this subsection:

6 “(A) The term ‘appropriate committees of  
7 Congress’ means—

8 “(i) the Committee on Veterans’ Af-  
9 fairs and the Committee on Appropriations  
10 of the Senate; and

11 “(ii) the Committee on Veterans’ Af-  
12 fairs and the Committee on Appropriations  
13 of the House of Representatives.

14 “(B) The term ‘clean electronic claim’  
15 means the transmission of data for purposes of  
16 payment of covered health care expenses that is  
17 submitted to the Secretary which contains sub-  
18 stantially all of the required data elements nec-  
19 essary for accurate adjudication, without ob-  
20 taining additional information from the health  
21 care entity or provider that furnished the care  
22 or service, submitted in such format as pre-  
23 scribed by the Secretary in regulations for the  
24 purpose of paying claims for care or services.

1           “(C) The term ‘clean paper claim’ means  
2           a paper claim for payment of covered health  
3           care expenses that is submitted to the Secretary  
4           which contains substantially all of the required  
5           data elements necessary for accurate adjudica-  
6           tion, without obtaining additional information  
7           from the health care entity or provider that fur-  
8           nished the care or service, submitted in such  
9           format as prescribed by the Secretary in regula-  
10          tions for the purpose of paying claims for care  
11          or services.

12           “(D) The term ‘fraudulent claims’—

13           “(i) means the intentional and delib-  
14           erate misrepresentation of a material fact  
15           or facts by a health care entity or provider  
16           made to induce the Secretary to pay a  
17           claim that was not legally payable to that  
18           entity or provider; and

19           “(ii) does not include a good faith in-  
20           terpretation by a health care entity or pro-  
21           vider of utilization, medical necessity, cod-  
22           ing, and billing requirements of the Sec-  
23           retary.

24           “(E) The term ‘health care entity or pro-  
25          vider’ means any health care entity or provider

1           that is an entity described in subsection  
2           (a)(1)(B), excluding any Federal health care  
3           entity or provider.

4           “(v) INFORMATION ON SCHEDULING APPOINT-  
5 MENTS.—The Secretary shall provide to each eligible vet-  
6 eran who seeks an appointment for care or services under  
7 this section the following:

8           “(1) Information on the time required for a vet-  
9 eran to make an appointment for such care or serv-  
10 ices under this section in the region in which the  
11 veteran resides.

12           “(2) With respect to appointments made  
13 through third party administrators—

14           “(A) information on what will happen if  
15 the third party administrator cannot schedule  
16 an appointment for the provision of such care  
17 or services;

18           “(B) a list of other health care providers  
19 in the region in which the veteran resides that  
20 are within the network of the third party ad-  
21 ministrator; and

22           “(C) information on how the veteran can  
23 file with the Secretary a complaint concerning  
24 the handling of an appointment by the third  
25 party administrator.

1       “(w) REQUIREMENTS OF THIRD PARTY ADMINIS-  
2 TRATORS.—

3           “(1) APPOINTMENT TIMING.—The Secretary  
4 shall ensure that each contract with a third party  
5 administrator requires the third party administrator  
6 to schedule an appointment for care or services  
7 under this section for an eligible veteran not later  
8 than five days after the eligible veteran elects to re-  
9 ceive such care or services under this section.

10          “(2) TRACKING OF APPOINTMENTS.—The Sec-  
11 retary shall track all appointments for care and  
12 services under this section that are scheduled di-  
13 rectly through a third party administrator.

14          “(3) FOLLOW-UP.—The Secretary shall follow  
15 up with a third party administrator regarding any  
16 appointment for care or services under this section  
17 that is pending to be scheduled by the third party  
18 administrator for more than 5 days to determine the  
19 reason for the delay in scheduling the appointment.

20          “(4) REPORT ON OVERDUE APPOINTMENTS.—  
21 The Secretary shall require each third party admin-  
22 istrator to submit to the Secretary, not later than 30  
23 days after the date of the enactment of the Veterans  
24 Deserve Better Act, a list of the appointments that,  
25 as of the submittal of the report, have been pending

- 1 scheduling by the third party administrator for a pe-
- 2 riod of more than 15 days.”.

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