

116TH CONGRESS
2D SESSION

S. 3888

To ensure that veterans receive timely and effective health care under the Veterans Community Care Program and Veterans Care Agreements during the COVID–19 emergency, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 3, 2020

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

A BILL

To ensure that veterans receive timely and effective health care under the Veterans Community Care Program and Veterans Care Agreements during the COVID–19 emergency, 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. COMMUNITY CARE FOR VETERANS DURING**
4 **COVID–19 EMERGENCY.**

5 (a) VETERANS COMMUNITY CARE PROGRAM AND
6 VETERANS CARE AGREEMENTS.—

7 (1) ELIGIBILITY FOR COVID–19 CARE.—During
8 the period of a covered public health emergency, the

1 Secretary of Veterans Affairs shall furnish COVID–
2 19 care, regardless of whether such care is for a
3 service-connected disability—

4 (A) under section 1703 of title 38, United
5 States Code, to any veteran described in sub-
6 section (b) of such section; and

7 (B) under section 1703A of such title, to
8 any individual described in subsection (l) of
9 such section.

10 (2) PREAUTHORIZATION FOR CERTAIN SERV-
11 ICES NOT REQUIRED.—

12 (A) IN GENERAL.—During the period of a
13 covered public health emergency, in carrying
14 out section 1703(a)(3) of title 38, United
15 States Code, the Secretary of Veterans Affairs
16 shall treat medical care and services described
17 in subparagraph (B) as being authorized by the
18 Secretary under such section, regardless of
19 whether the Secretary is notified of such care
20 by any deadline otherwise required by the Sec-
21 retary for purposes of such section.

22 (B) MEDICAL CARE AND SERVICES DE-
23 SCRIBED.—The medical care and services de-
24 scribed in this subparagraph are the following:

25 (i) COVID–19 care.

1 (ii) Emergency medical care and serv-
2 ices.

3 (b) EMERGENCY TREATMENT.—

4 (1) RULE.—During the period of a covered
5 public health emergency, the Secretary of Veterans
6 Affairs shall administer claims for payments relating
7 to emergency COVID–19 care as follows:

8 (A) If the community care provider that
9 furnished the care is an eligible provider under
10 section 1703 of title 38, United States Code,
11 the Secretary shall administer the claim pursu-
12 ant to that section.

13 (B) If the community care provider has en-
14 tered into a Veterans Care Agreement under
15 section 1703A of such title, the Secretary shall
16 administer the claim pursuant to that section.

17 (C) If the community care provider is not
18 described in subparagraph (A) or (B), the Sec-
19 retary shall administer the claim pursuant to
20 section 1725 or 1728 of such title, as the case
21 may be.

22 (2) SCOPE OF TREATMENT.—During the period
23 of a covered public health emergency, emergency
24 COVID–19 care furnished to veterans shall be
25 deemed to be emergency treatment for purposes of

1 sections 1725 and 1728 of title 38, United States
2 Code, regardless of whether—

3 (A) such care meets the requirements of
4 subparagraphs (A) and (B) of subsection (f)(1)
5 of such section 1725; or

6 (B) such care is furnished after the vet-
7 eran can be transferred, or is accepted for a
8 transfer, to a facility of the Department of Vet-
9 erans Affairs or other Federal facility as de-
10 scribed in clauses (i) and (ii) of subparagraph
11 (C) of such subsection.

12 (3) ENROLLMENT REQUIREMENTS.—During
13 the period of a covered public health emergency, in
14 carrying out section 1725 of title 38, United States
15 Code, the Secretary shall determine whether a vet-
16 eran who receives emergency COVID–19 care is an
17 active Department health care participant under
18 subsection (b) of such section without regard to
19 whether the veteran meets the requirement in para-
20 graph (2)(B) of such subsection.

21 (4) SUBMISSION OF CLAIMS.—During the pe-
22 riod of a covered public health emergency, subsection
23 (b) of section 1703D of title 38, United States Code,
24 shall apply with respect to community care providers
25 furnishing emergency COVID–19 care to veterans

1 pursuant to sections 1725 and 1728 of title 38,
2 United States Code.

3 (c) PRIMARY PAYER.—

4 (1) IN GENERAL.—During the period of a cov-
5 ered public health emergency, notwithstanding sec-
6 tion 1725 of title 38, United States Code, or any
7 other provision of law, the Secretary of Veterans Af-
8 fairs shall be the primary payer with respect to
9 COVID–19 care furnished to veterans, including
10 with respect to the transportation of a veteran by
11 ambulance.

12 (2) REIMBURSEMENT.—The Secretary may
13 seek reimbursement from any third party that would
14 otherwise be liable for COVID–19 care furnished to
15 a veteran or obligated to provide or to pay the ex-
16 penses of such care, including pursuant to a health-
17 plan contract.

18 (d) APPLICATION.—This section shall apply to med-
19 ical care or services furnished during the period of a cov-
20 ered public health emergency, regardless of whether such
21 care or services were furnished before the date of the en-
22 actment of this Act.

23 (e) DEFINITIONS.—In this section:

24 (1) The term “community care provider” has
25 the meaning given the term “health care entity or

1 provider” in section 1703D(i) of title 38, United
2 States Code.

3 (2) The term “covered public health emer-
4 gency” means the declaration—

5 (A) of a public health emergency, based on
6 an outbreak of COVID–19, by the Secretary of
7 Health and Human Services under section 319
8 of the Public Health Service Act (42 U.S.C.
9 247d); or

10 (B) of a domestic emergency, based on an
11 outbreak of COVID–19, by the President, the
12 Secretary of Homeland Security, or a State or
13 local authority.

14 (3) The term “COVID–19 care” means medical
15 care or services furnished to a veteran by a commu-
16 nity care provider pursuant to chapter 17 of title 38,
17 United States Code, or any other law administered
18 by the Secretary of Veterans Affairs, for the diag-
19 nosis or treatment of COVID–19.

20 (4) The term “health-plan contract” and “third
21 party” have the meanings given those terms in sec-
22 tion 1725 of title 38, United States Code.

○