

103^D CONGRESS
2^D SESSION

S. 2135

To authorize the Department of Veterans Affairs to conduct pilot programs for delivering health care services in States which have statutorily reformed their health care systems.

IN THE SENATE OF THE UNITED STATES

MAY 19 (legislative day, MAY 16), 1994

Mr. ROCKEFELLER (by request) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

A BILL

To authorize the Department of Veterans Affairs to conduct pilot programs for delivering health care services in States which have statutorily reformed their health care systems.

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 shall be cited as the “VA State Health-Care
5 Reform Pilot Programs Act”.

6 **SEC. 2. DEFINITIONS.**

7 For purposes of this Act—

1 (1) The term “Department” means the Depart-
2 ment of Veterans Affairs.

3 (2) The term “family” means the spouse of a
4 veteran or a child of a veteran as those terms are
5 defined in section 101 of title 38, United States
6 Code.

7 (3) The term “pilot program” means a program
8 authorized by section 5(a) of this Act.

9 (4) The term “reformed health-care system”
10 means a State program which is statutorily estab-
11 lished by a State that the Secretary determines was
12 established to assure that residents of the State have
13 access to health-care services.

14 (5) The term “Secretary” means the Secretary
15 of Veterans Affairs.

16 (6) The term “veteran” has meaning given such
17 term in section 101(2) of title 38, United States
18 Code.

19 **SEC. 3. PILOT PROGRAMS AUTHORITY.**

20 (a) **AUTHORITY TO CONDUCT PROGRAMS.**—In up to
21 five States that have reformed health-care systems, the
22 Secretary may conduct pilot programs under which the
23 Department may provide health care services, directly or
24 by contract, to persons identified in subsection (b) on the

1 same or similar basis as the State plan mandates for resi-
2 dents in the State.

3 (b) PERSONS ELIGIBLE FOR SERVICES UNDER PRO-
4 GRAMS.—Persons eligible to receive services under a pilot
5 program are any residents of the State in which the pilot
6 program is being conducted who are—

7 (1) veterans;

8 (2) individuals eligible for benefits under sec-
9 tion 1713 of title 38, United States Code; or

10 (3) members of the family of any veteran who
11 participates in a pilot program.

12 (c) AUTHORITY TO COMPLY WITH STATE HEALTH
13 PLAN REQUIREMENTS.—In conducting pilot programs,
14 the Secretary may comply with such requirements of State
15 law applicable to the establishment and operation of a
16 health plan under a State reform plan, or to functioning
17 as a participant in, member of, or contractor to, such a
18 health plan, as the Secretary considers appropriate for ap-
19 plication to a department or agency of the Federal
20 Government.

21 (d) CATCHMENT AREAS.—In conducting pilot pro-
22 grams in a State, the Secretary may—

23 (1) conduct the programs in some or all health
24 care facilities of the Department located in the
25 State; and

1 (2) establish such catchment areas within the
2 State as the Secretary determines appropriate.

3 **SEC. 4. CONDITIONS OF PARTICIPATION.**

4 (a) **CONDITION ON ESTABLISHMENT OF PRO-**
5 **GRAMS.**—The Secretary may establish and operate a pilot
6 program in a State only after determining, based on such
7 factors as the Secretary considers relevant (including the
8 factors referred to in subsection (b)), that, in the absence
9 of an enrollment option through a Department plan in
10 that State, the projected workload in one or more Depart-
11 ment health care facilities in the State would decline to
12 a level that—

13 (1) would threaten to impair the capability of
14 such facilities to meet one or more assigned mission
15 of such facilities; or

16 (2) would result in a deterioration in the quality
17 of the service delivered by such facilities to an extent
18 that it would not be reasonable to continue to pro-
19 vide needed services in such facilities and satisfac-
20 tory alternative arrangements could not feasibly be
21 provided.

22 (b) **FACTORS.**—In making a determination under
23 subsection (a), the Secretary shall consider the following:

24 (1) The relative universality of coverage pro-
25 vided to State residents under the State reform plan.

1 (2) The scope of benefits offered under the
2 plan.

3 (3) The extent of financing supporting the plan.

4 (4) The extent to which the State may serve as
5 a model for the Department in determining how to
6 compete with other health care providers in other
7 States when Congress enacts National health care
8 reform.

9 (5) Such other matters as the Secretary deter-
10 mines appropriate.

11 (c) NOTICE AND WAIT REQUIREMENT.—(1) The Sec-
12 retary may establish and operate a pilot program in a
13 State not earlier than 30 days after submitting to the
14 Committees on Veterans' Affairs of the Senate and the
15 House of Representatives a report on the pilot program.

16 (2) Each report submitted under paragraph (1) shall
17 include the following:

18 (A) The rationale for proposed participation in
19 the State reform plan.

20 (B) A description of the extent to which appli-
21 cable provisions of State law specifically accommo-
22 date and facilitate participation of the Department
23 in the State reform plan.

24 (C) A detailed business plan for the participa-
25 tion of the Department under the State reform plan.

1 (D) A description of the actions the Secretary
2 has taken to consult with veterans on the proposed
3 participation of the Department in the State reform
4 plan.

5 (d) REQUIREMENT FOR REGULATIONS.—The Sec-
6 retary may operate a pilot program in a State only after
7 prescribing implementing regulations.

8 (e) COPAYMENTS.—(1) Except as provided in para-
9 graph (2), the Secretary shall require persons receiving
10 health care services under a pilot program to pay all pre-
11 miums, copayments, deductibles, and coinsurance amounts
12 required by State law in the State where the pilot program
13 is undertaken.

14 (2) The Secretary may not collect premiums,
15 copayments, deductibles, and coinsurance amounts under
16 this subsection from the following individuals:

17 (A) Any veteran with a service-connected dis-
18 ability.

19 (B) any veteran whose discharge or release
20 from the active military, naval or air service was for
21 a disability incurred or aggravated in the line of
22 duty.

23 (C) Any veteran who is in receipt of, or who,
24 but for a suspension pursuant to section 1151 of
25 title 38, United States Code (or both such a suspen-

1 sion and the receipt of retired pay), would be enti-
2 tled to disability compensation, but only to the ex-
3 tent that such a veteran's continuing eligibility for
4 such care is provided for in the judgment or settle-
5 ment provided for in such section.

6 (D) Any veteran who is a former prisoner of
7 war.

8 (E) Any veteran of the Mexican border period
9 or World War I.

10 (F) Any veteran who is unable to defray the ex-
11 penses of necessary care as determined under section
12 1722(a) of title 38, United States Code.

13 **SEC. 5. EXPIRATION OF AUTHORITY.**

14 The authority to conduct pilot programs under this
15 Act shall expire on December 31, 1997.

16 **SEC. 6. FUNDING.**

17 (a) REVOLVING FUND.—There is established in the
18 Treasury of the United States a revolving fund for con-
19 ducting pilot programs authorized by section 3(a).

20 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
21 authorized to be appropriated to the revolving fund for
22 fiscal years 1995, 1996, and 1997 such sums as may be
23 necessary to carry out the purposes of this Act.

24 (c) AVAILABILITY OF FUNDS.—(1) Amounts in the
25 revolving fund established under subsection (a) shall be

1 available without fiscal year limitation for payment of all
2 expenses necessary to carry out the pilot programs, includ-
3 ing—

4 (A) expenses of furnishing medical care and
5 services;

6 (B) expenses of consumer surveys;

7 (C) expenses of printing, marketing, and adver-
8 tising services (including contracts for such serv-
9 ices); and

10 (D) expenses for the acquisition, construction,
11 repair, or renovation of facilities (including the land
12 on which facilities are located or to be constructed).

13 (2) Funds in the revolving fund shall not be available
14 for a major medical facility project, or a major medical
15 facility lease, under section 8104(a)(3) of title 38, United
16 States Code, unless specifically authorized by law.

17 (d) COLLECTION OF FUNDS.—(1) The Secretary may
18 recover or collect funds which result from participation by
19 the Department in a pilot program authorized under sec-
20 tion 3(a) for care provided to veterans or their dependents.
21 The Secretary may recover or collect such funds (including
22 amounts received as premiums, copayments, deductibles or
23 third-party reimbursements) from an individual, another
24 agency or department of the Federal Government, an

1 agency of State or local government, or a health-care pro-
2 vider, health care plan, insurer, or other entity.

3 (2) The Secretary shall, in consultation with the Di-
4 rector of the Office of Management and Budget, estimate
5 the collection of funds to be received for services to be
6 provided to veterans by each Department facility partici-
7 pating in a State pilot program during each fiscal year.
8 Such estimates shall be based upon and consistent with
9 the higher of—

10 (A) the fiscal year baseline for third-party re-
11 coveries, copayments, and other medical collections
12 for the fiscal year included in the budget submitted
13 to Congress by the President; or

14 (B) the fiscal year baseline for such collections
15 for the fiscal year as reestimated by the Congres-
16 sional Budget Office.

17 (3)(A) Amounts collected for services provided to de-
18 pendents shall be deposited in the revolving fund estab-
19 lished in subsection (a).

20 (B) Amounts collected for services provided to veter-
21 ans in excess of the estimate determined under paragraph
22 (2) shall be deposited in the revolving fund established
23 under subsection (a).

24 (C) An amount up to the estimate determined under
25 paragraph (2) shall be deposited in the Medical-Care Cost

1 Recovery Fund established under section 1729(g) of title
2 38, United States Code.

3 **SEC. 7. ADMINISTRATIVE FLEXIBILITY.**

4 (a) APPLICABILITY OF NOTICE AND WAIT REQUIRE-
5 MENT.—The Secretary may carry out any reorganization
6 necessary to carry out a pilot program authorized by sec-
7 tion 3(a) without regard to the provisions of section
8 510(b) of title 38, United States Code.

9 (b) APPLICABILITY OF OTHER PROVISIONS OF
10 LAW.—The Director of a Department health care facility
11 participating in a pilot project authorized by section 3(a)
12 may enter into agreements with health care plans, insur-
13 ers, health care providers, or with any other entity or indi-
14 vidual to furnish or obtain any health care resource, as
15 that term is defined in section 8152 of title 38, United
16 States Code, without regard to the following:

17 (1) Chapter 7 of the Office of Federal Procure-
18 ment Policy Act (41 U.S.C. 410 et. seq.).

19 (2) Chapter 4 of the Federal Property and Ad-
20 ministrative Services Act of 1949 (41 U.S.C. 251 et
21 seq.).

22 (3) Subsections (b)(7), (e), (f), (g), and (h) of
23 section 8 of the Small Business Act (15 U.S.C.
24 637), relating to certificate of competency, notice,
25 and sole sourcing.

1 (4) Office of Management and Budget Circular
2 A-76.

3 (5) Section 8110(c) of title 38, United States
4 Code, relating to contracting out at Department
5 medical facilities.

6 (6) Subchapter V of chapter 35 of title 31,
7 United States Code, relating to Government Ac-
8 counting Office protests.

9 (7) Sections 3526 and 3702 of title 31, United
10 States Code, relating to jurisdiction over Govern-
11 ment Accounting Office protests.

12 (8) Section 1491 of title 28, United States
13 Code, relating to protests to the United States Court
14 of Federal Claims.

15 (9) Section 702 of title 5, United States Code,
16 and section 1346(2) of title 28, United States Code,
17 relating to protests to United States district courts.

18 (10) Section 8125 of title 38, United States
19 Code, relating to local contracts for health care
20 items.

21 (11) The provisions of law appearing as sec-
22 tions 471 through 544 of title 40, United States
23 Code, for purposes of the proposal of the Law Revi-
24 sion Counsel of a codification of Federal law, relat-

1 ing to the authority of the General Services Admin-
2 istration over leasing and disposal of property.

3 (12) Section 8122(a)(1) of title 38, United
4 States Code, relating to out-leasing by the Depart-
5 ment.

6 **SEC. 8. MARKETING.**

7 The Secretary may carry out such promotional, ad-
8 vertising, and marketing activities as the Secretary consid-
9 ers necessary to effectively establish and operate a health
10 plan pilot program.

11 **SEC. 9. REPORTS.**

12 Not later than November 30 of each of 1995 through
13 1998, the Secretary shall submit to the Committees on
14 Veterans' Affairs of the Senate and the House of Rep-
15 resentatives a report on the pilot programs carried out by
16 the Secretary under this Act.

17 **SEC. 10. SAVINGS PROVISIONS.**

18 (a) BENEFITS.—The Secretary shall provide the per-
19 sons referred to in section 3(b) with all benefits authorized
20 to be provided to such persons under title 38, United
21 States Code, in accordance with the terms and conditions
22 applicable to such persons and such benefits, notwith-
23 standing that such benefits are not provided under the
24 pilot program.

1 (b) UTILIZATION OF OTHER DEPARTMENT FACILI-
2 TIES.—Department facilities not participating in pilot pro-
3 grams shall continue to furnish health care benefits in ac-
4 cordance with the provisions of title 38, United States
5 Code.

○