

110TH CONGRESS  
1ST SESSION

# H. R. 1222

To restore health care coverage to retired members of the uniformed services,  
and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 28, 2007

Mr. VAN HOLLEN (for himself, Mr. EDWARDS, Mr. MILLER of Florida, and Mr. JONES of North Carolina) introduced the following bill; which was referred to the Committee on Armed Services, and in addition to the Committee on Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To restore health care coverage to retired members of the  
uniformed services, 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 “Keep Our Promise to  
5 America’s Military Retirees Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1           (1) No statutory health care program existed  
2 for members of the uniformed services who entered  
3 service prior to December 7, 1956, and retired after  
4 serving a minimum of 20 years.

5           (2) Statutes enacted in 1956 allowed those who  
6 entered service on or after December 7, 1956, and  
7 retired after serving a minimum of 20 years or by  
8 reason of a service-connected disability to medical  
9 and dental care in any facility of the uniformed serv-  
10 ices, subject to the availability of space and facilities  
11 and the capabilities of the medical and dental staff.

12           (3) Recruiters, re-enlistment counselors, and of-  
13 ficers at all levels of the uniformed services, and  
14 other government officials, as agents of the United  
15 States Government, continued to allow members who  
16 entered the uniformed services to believe they would  
17 be entitled to fully paid lifetime health care upon re-  
18 tirement, despite enactment of statutes in 1956,  
19 subsequent statutes, and the issuance of regulations  
20 that defined and limited the availability of medical  
21 care to retired members of the uniformed services.

22           (4) After 5 rounds of base closures between  
23 1988 and 1995 and further drawdowns of remaining  
24 military medical treatment facilities, access to  
25 “space available” health care in a military medical

1 treatment facility is difficult for many military retir-  
2 ees and virtually nonexistent for some.

3 (5) Although provisions in the Floyd D. Spence  
4 National Defense Authorization Act for Fiscal Year  
5 2001 (as enacted into law by Public Law 106–398)  
6 extended coverage under the TRICARE program to  
7 medicare eligible military retirees age 65 and older,  
8 those provisions did not address the health care  
9 needs of military retirees under the age of 65.

10 (6) The United States should make good on the  
11 promises recruiters made in good faith and reestab-  
12 lish high quality health care for all retired members  
13 of the uniformed services.

14 **SEC. 3. COVERAGE OF MILITARY RETIREES UNDER THE**  
15 **FEDERAL EMPLOYEES HEALTH BENEFITS**  
16 **PROGRAM.**

17 (a) COVERAGE FOR RETIREES AND DEPENDENTS.—

18 (1) Section 1108 of title 10, United States Code, is  
19 amended to read as follows:

20 **“§ 1108. Health care coverage through Federal Em-**  
21 **ployees Health Benefits program**

22 “(a) FEHBP OPTION.—The Secretary of Defense,  
23 after consulting with the other administering Secretaries,  
24 shall enter into an agreement with the Office of Personnel  
25 Management to provide coverage to eligible beneficiaries

1 described in subsection (b) under the health benefits plans  
2 offered through the Federal Employees Health Benefits  
3 program under chapter 89 of title 5.

4 “(b) ELIGIBLE BENEFICIARIES; COVERAGE.—(1) An  
5 eligible beneficiary under this subsection is—

6 “(A) a member or former member of the uni-  
7 formed services described in section 1074(b) of this  
8 title;

9 “(B) an individual who is an unremarried  
10 former spouse of a member or former member de-  
11 scribed in section 1072(2)(F) or 1072(2)(G);

12 “(C) an individual who is—

13 “(i) a dependent of a deceased member or  
14 former member described in section 1076(b) or  
15 1076(a)(2)(B) of this title or of a member who  
16 died while on active duty for a period of more  
17 than 30 days; and

18 “(ii) a member of family as defined in sec-  
19 tion 8901(5) of title 5; or

20 “(D) an individual who is—

21 “(i) a dependent of a living member or  
22 former member described in section 1076(b)(1)  
23 of this title; and

24 “(ii) a member of family as defined in sec-  
25 tion 8901(5) of title 5.

1       “(2) Eligible beneficiaries may enroll in a Federal  
2 Employees Health Benefit plan under chapter 89 of title  
3 5 under this section for self-only coverage or for self and  
4 family coverage which includes any dependent of the mem-  
5 ber or former member who is a family member for pur-  
6 poses of such chapter.

7       “(3) A person eligible for coverage under this sub-  
8 section shall not be required to satisfy any eligibility cri-  
9 teria specified in chapter 89 of title 5 (except as provided  
10 in paragraph (1)(C) or (1)(D)) as a condition for enroll-  
11 ment in health benefits plans offered through the Federal  
12 Employees Health Benefits program under this section.

13       “(4) For purposes of determining whether an indi-  
14 vidual is a member of family under paragraph (5) of sec-  
15 tion 8901 of title 5 for purposes of paragraph (1)(C) or  
16 (1)(D), a member or former member described in section  
17 1076(b) or 1076(a)(2)(B) of this title shall be deemed to  
18 be an employee under such section.

19       “(5) An eligible beneficiary who enrolls in the Federal  
20 Employees Health Benefits program under this section  
21 shall not be eligible to receive health care under section  
22 1086 or section 1097. Such a beneficiary may continue  
23 to receive health care in a military medical treatment facil-  
24 ity, in which case the treatment facility shall be reim-  
25 bursed by the Federal Employees Health Benefits pro-

1 gram for health care services or drugs received by the ben-  
2 eficiary.

3 “(c) CHANGE OF HEALTH BENEFITS PLAN.—An eli-  
4 gible beneficiary enrolled in a Federal Employees Health  
5 Benefits plan under this section may change health bene-  
6 fits plans and coverage in the same manner as any other  
7 Federal Employees Health Benefits program beneficiary  
8 may change such plans.

9 “(d) GOVERNMENT CONTRIBUTIONS.—The amount  
10 of the Government contribution for an eligible beneficiary  
11 who enrolls in a health benefits plan under chapter 89 of  
12 title 5 in accordance with this section may not exceed the  
13 amount of the Government contribution which would be  
14 payable if the electing beneficiary were an employee (as  
15 defined for purposes of such chapter) enrolled in the same  
16 health benefits plan and level of benefits.

17 “(e) SEPARATE RISK POOLS.—The Director of the  
18 Office of Personnel Management shall require health bene-  
19 fits plans under chapter 89 of title 5 to maintain a sepa-  
20 rate risk pool for purposes of establishing premium rates  
21 for eligible beneficiaries who enroll in such a plan in ac-  
22 cordance with this section.

23 “(f) REIMBURSEMENT FOR EXPENSES FOR HEALTH  
24 CARE SERVICES NORMALLY PROVIDED BY THE DEPART-  
25 MENT OF DEFENSE UNDER TRICARE STANDARD.—The

1 Secretary of Defense shall develop and implement a sys-  
2 tem to reimburse an eligible beneficiary who enrolls in a  
3 health benefits plan under chapter 89 of title 5 in accord-  
4 ance with this section for health care costs incurred by  
5 the beneficiary that are not paid under the health benefits  
6 plan but would have been paid by the Department of De-  
7 fense under TRICARE Standard.”.

8 (2) The item relating to section 1108 at the begin-  
9 ning of such chapter is amended to read as follows:

“1108. Health care coverage through Federal Employees Health Benefits pro-  
gram.”.

10 (b) EFFECTIVE DATE.—The amendments made by  
11 this section shall take effect on October 1, 2007.

12 **SEC. 4. REIMBURSEMENT FOR TRICARE PHARMACY BENE-**  
13 **FITS AT TRICARE NETWORK PHARMACY LEV-**  
14 **ELS TO CERTAIN MILITARY RETIREES AND**  
15 **DEPENDENTS IN HARDSHIP CASES.**

16 (a) IN GENERAL.—In the case of an eligible person  
17 who has a certification described in subsection (b), the  
18 Secretary shall reimburse such person for pharmacy bene-  
19 fits received from a pharmacy that is not a TRICARE  
20 network pharmacy in the same manner and in the same  
21 amounts as the Secretary would reimburse such person  
22 for such benefits received from a pharmacy that is a  
23 TRICARE network pharmacy.

1 (b) CERTIFICATION.—The certification referred to in  
2 subsection (a) is a certification from an eligible person’s  
3 physician—

4 (1) stating that the person does not have access  
5 to a TRICARE network pharmacy due to physical or  
6 medical constraints; and

7 (2) meeting such other criteria as the Secretary  
8 of Defense considers appropriate.

9 (c) ELIGIBLE PERSON.—In this section, an eligible  
10 person is an eligible beneficiary as described in section  
11 1108(b) of title 10, United States Code who has another  
12 insurance plan or program that provides primary coverage  
13 for health benefits.

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